

# General Terms and Conditions

## 1. ENTIRE AGREEMENT

This Subcontract embodies the entire agreement between the Parties. The Parties shall not be bound by or liable for any statement, representation, promise, or understanding not set forth herein. Nothing contained in proposals, correspondence, discussions, or negotiations prior to the date of this agreement has any effect on this agreement unless specifically incorporated herein. No changes, amendments, or modifications of any of the terms and conditions hereof shall be valid unless reduced to writing and signed by the Parties.

## 2. INVOICING AND PAYMENT

a) Subcontractors' schedule of values will be prepared by the Contractor based on the approved master schedule with the Owner. Prior to your scheduled start date, a schedule of values will be sent to you for review and approval. Once accepted and approved, this schedule of values will be used for your monthly progress billing. This project is subject to automated billing. The Contractor will generate monthly progress invoices for the Subcontractor based on your approved schedule of values. The progress completed, billed, and approved by the Owner will be the progress billed on behalf of the Subcontractor. Pay requests are subject to revision based on the Owner's final review and approval of Contractor's pay request. If you have any concerns on your monthly progress, see the Project Manager prior to the 20th of the month. An approved progress invoice will be sent to Subcontractor prior to the 10th of the following month via fax or email. Releases and all payment requirements will be requested at this time. All progress releases must be dated through the last day of the month. Releases are required on a monthly basis from all Tiers and/or material suppliers, rental organizations, or any other person(s) who have contributed to this project on behalf of the Subcontractor. At 100% progress billing, original conditional or unconditional final releases are required from Subcontractor for all Tiers and suppliers; original final conditional release required for Subcontractor at 100% payment. Subcontractor will be contacted and instructed by the Project Accountant for payment compliance, per Billing Policies & Procedures, attachment included with subcontract transmittal).

b) Lien Waiver and Release (attached) - All required lien waiver/release forms (interim and/or final) must accompany the invoice. Payments will be withheld if properly executed lien waivers/release forms are not received with the invoice.

c) Lien Waiver and Release for Union Labor – Will your firm be utilizing union labor in the performance of the work?

YES  NO If yes, a separate lien waiver/release from the fund manager is required for each invoice

For all questions concerning invoices, payments and other accounting issues:

[const-accounting@ses-grp.com](mailto:const-accounting@ses-grp.com).

## 3. CHANGES

The Contractor may at any time prior to final delivery under this Subcontract by notice make changes within the general scope hereof in any one or more of the following: (1) drawings, designs or specifications where the Articles to be furnished are to be specially manufactured for the Contractor in accordance therewith; (2) method of shipment or packing; (3) the place of delivery; (4) description of services to be performed; (5) time of performance of the services (e.g.), hours of day, day of the week and place of performance of the services; and (6) the delivery schedule.

If any such change causes an increase or decrease in the cost or time required for performance of this Subcontract, an equitable adjustment shall be made in the price or delivery schedule or both, and this Subcontract shall be modified accordingly. Any claim by the Subcontractor for adjustment under this clause must be asserted within seven (7) days from the date of notification of the change; provided, however, that the Contractor, if the Contractor decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment of the Subcontract. Failure to agree to an adjustment shall not excuse the Subcontractor from proceeding with the Subcontract as changed. If the Subcontract is placed under a Government prime contract, the cost principles set forth in Federal Acquisition Regulation (FAR), Part 31, or the Department of Defense (DOD) FAR Supplement (DFARS) Part 231 shall be applicable in the determination and negotiation of any equitable adjustment of price hereunder.

Non-client directed change costs are limited to no more than 10% General Conditions and not to exceed 5% profit.

Whether made pursuant to this clause or by mutual agreement, changes shall not be binding upon the Subcontractor unless directed in writing by a member of the Contractor's Contracts & Purchasing Department.

## 4. INSPECTION

All Articles called for hereunder or portions thereof shall be subject to inspection and test by the Contractor and authorized Government representatives, if applicable, at any point during the manufacture thereof and in any event prior to acceptance. Final inspection and acceptance shall be after delivery in accordance with this Subcontract. The Contractor shall have the right to reject Articles found upon inspection not to conform to the Subcontract, to require their correction (either in place or at Subcontractor's plant, at the Contractor's option), or to accept nonconforming Articles at a reduction in price which is equitable under the circumstances. The Contractor shall not be required to inspect or test Articles hereunder. It shall be the Subcontractor's responsibility to adequately test and inspect the Articles to be tendered for acceptance to assure that such Articles are in strict conformance with all the requirements of this Subcontract. By such tender Subcontractor assures the Contractor that such Articles offered so comply. Except as otherwise provided in this Subcontract, final acceptance shall be conclusive except as regards to latent defects, fraud, or such gross mistakes as amount to fraud.

## 5. WARRANTIES

(a) All standard manufacturer's and/or Subcontractor's standard warranties shall apply. The foregoing warranties shall extend for the time period required by the Subcontract Documents, but in no event less than one (1) year from the date of final acceptance of all work under the Subcontract Documents. Subcontractor warrants that the management personnel (if any) proposed to perform the work hereunder are qualified to perform their assigned tasks. Subcontractor warrants that it has obtained all required licenses, unless otherwise stated herein, necessary to perform the work under this Subcontract. Subcontractor shall notify Contractor in the event of any revocation, suspension, or otherwise discontinued required license. Failure to provide the required notice constitutes Subcontractor's breach and is basis for termination of this Subcontract.

(b) The above warranties shall be in addition to any other rights and warranties available to the Contractor.

## 6. TERMINATION

Contractor may terminate at any time for its convenience or terminate for Subcontractor's breach, all or any part of this Subcontract. If this Subcontract is terminated for Subcontractor's breach or if Subcontractor is in breach of this Subcontract when it is terminated for convenience, Subcontractor shall have no claim against Contractor for any costs incurred or any profit with respect to the terminated or cancelled portion of this Subcontract. If this Subcontract is otherwise terminated by Contractor, Subcontractor shall be paid an equitable amount to cover the effort actually expended by Subcontractor plus a reasonable profit thereon; provided, however that no amount shall be paid for any anticipatory profits and the total amount shall not exceed the prices contained within this Subcontract for the Articles terminated. Where the prime contract has been awarded under the Small Business Administration 8(a) program, termination for convenience may be used to reduce Subcontractor's work in whole or in part in order for the Contractor to comply with the Small Business Administration 8(a) self-performance requirements established at FAR 52.219-14. Also, in addition to Contractor's right to cancel, all or a portion of this Subcontract may be cancelled upon the happening of Subcontractor, voluntarily or involuntarily, filing petition under the Bankruptcy Laws of the United States, the execution of an assignment for the benefit of creditors, or an application for the appointment of a receiver. The rights and remedies provided herein shall not be exclusive but are cumulative and in addition to any other rights and remedies provided by law or covered under this Subcontract.

## 7. INDEMNIFICATION

Each party shall hold the other, the Owner, together with their agents, servants, employees, representatives, officers, directors, sureties and attorneys, harmless from and against and shall indemnify the other for all claims, bodily injury, death or damage to real or tangible property, taxes, liability, loss, costs, expenses, or damages to the extent of its negligent acts or omissions in performing under this Subcontract. Subcontractor warrants that it carries adequate insurance to cover its indemnification obligations hereunder, as specified in the Insurance provisions set forth in this Subcontract.

To the extent of its negligence and/or gross or willful misconduct, the indemnifying party shall reimburse the other for said action at its own expense and shall pay and discharge any judgment that may be rendered in any such action. In the event of any indemnified claim against Contractor by any third person, Contractor reserves the right to choose legal counsel and direct the defense of such claim at Subcontractor's sole cost and expense. Such undertaking of defense shall not be deemed an admission of liability, an agreement to assume liability, or a waiver of any right or remedy which the Contractor may have. This right may only be exercised if the Subcontractor is notified of the claim, the claim is the result of Subcontractor's performance of the work under this Subcontract, and the Subcontractor either fails or neglects to defend the claim.

Subcontractor's indemnity obligations shall remain in full force and effect regardless of whether the claim relates to a claim under Subcontractor's Worker's Compensation Policy.

Each party shall protect, indemnify, and hold harmless the other party hereto from and against any and all damages and expenses arising out of a claim of actual or alleged infringement of patent, copyright, trademark or trade name asserted in connection with the use of equipment, tools, or methods of operation furnished pursuant to this Subcontract.

In no event, regardless of the legal theory under which such damages are sought, shall either party be liable to the other for incidental, indirect, or consequential damages, including but not limited to, loss of profits, or revenue, loss of use of equipment or facilities, costs of capital, cost of substitute or underutilization of equipment, facilities or labor, downtime costs, or claims of customers resulting from the performance or nonperformance of obligations of this Subcontract, even if it has been advised of the possibility of such damages.

## 8. CONFIDENTIALITY

Subcontractor shall keep confidential all information, drawings, specifications, or data, and return to the Contractor upon request all documents furnished by the Contractor and marked proprietary, and shall not divulge or use such information, drawings, specification, or data for the benefit of any other party except as required for the efficient performance of this Subcontract. This Subcontract, its entire contents, including but not limited to the scope of work and the nature of the business relationship between the parties, are private, trade secret, confidential, and proprietary and the existence of which shall not be disclosed without prior written approval by both parties.

## 9. ASSIGNMENT

Subcontractor may not assign this Subcontract nor any interest herein, in whole or in part, without the prior written consent of Contractor. However, Subcontractor may assign rights to be paid amounts due to a financing institution if buyer is promptly furnished a written notice and a signed copy of such assignment. Subcontractor shall perform all services hereunder with its' own personnel and shall not enter into a subcontract for any portion of the work without the prior written consent of the buyer. If assigned, all covenants, stipulations and promises of this Subcontract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

## 10. COMPLIANCE WITH LAWS

Subcontractor represents that it has and will continue during the performance of this Subcontract to comply with the provisions of all applicable federal, state and local laws and regulations. Subcontractor agrees to furnish the Contractor upon request, satisfactory evidence of compliance.

## 11. DISPUTES

Subcontractor will provide Contractor with a timely and detailed written notice of all claims and disputes. All disputes relating to questions of law or fact related to the Prime Contract will be governed by the disputes clause (FAR 52.233-1). If a decision relating to the Prime Contract is rendered by the Client and the decision relates to this Subcontract, said decision, if binding upon the Contractor, shall also be binding upon the Subcontractor. If Contractor appeals the Client's decision, any decision on appeal if binding upon the Contractor shall be binding upon the Subcontractor as it relates to the Subcontract. If any dispute or claim of Subcontractor is prosecuted or defended by Contractor, and Subcontractor is not directly a party, Subcontractor agrees to cooperate fully with Contractor and shall assist Contractor as necessary to diligently pursue all claims. Subcontractor shall pay or reimburse Contractor for all expenses and costs, including reasonable attorneys' fees incurred in connection therewith, to the extent of Subcontractor's interest in such claim or dispute. Subcontractor consents to joinder in any proceedings between Contractor and Client upon the request of Contractor. Pending the final disposition of any disputes, Subcontractor shall proceed as required by the Subcontract documents and as directed by Contractor during any pending claims and/or appeals. Subcontractor agrees that it will not take, or will suspend, any other action or actions (including but not limited to any arbitration(s) or action(s) commenced pursuant to the Federal Miller Act, state Miller Act, state lien statutes, Bond or Retainage

# General Terms and Conditions

Act(s)) with respect to any such claims and will pursue no independent litigation with respect thereto, pending final determination of any dispute resolution procedure between Customer and Contractor. For all other matters, the Contractor and Subcontractor agree to attempt to resolve any dispute by direct negotiations and in good faith. If these negotiations prove unsuccessful, the following rules shall apply: The Parties agree that this Subcontract, shall be governed and construed in accordance with the substantive and procedural laws of the State of Tennessee, except for FAR and FAR supplement clauses, if applicable, which shall be determined in accordance with Federal law. Unless otherwise prohibited, any and all disputes, controversies, claims or differences arising out of or relating to, or resulting from this Subcontract, its application or interpretation, or a breach thereof, which cannot be settled amicably by the Parties, shall be resolved exclusively by arbitration under the Rules of Procedure of the American Arbitration Association (the "Rules") then prevailing, which arbitration shall be held in Knoxville, Tennessee, United States of America. Arbitration shall be by a single arbitrator in accordance with the Rules. The decision of the arbitrator shall be final and binding on the parties, and judgment upon any award rendered may be entered in any court having jurisdiction thereof. If arbitration is prohibited the dispute will be resolved in the applicable court in the state of Tennessee. Any time which elapses in attempting to resolve the Dispute through either or both negotiation or arbitration shall extend day-for-day any applicable statute(s) of repose or limitation of actions. The Parties agree that this Arbitration obligation shall survive the termination of this Subcontract, whether by default or convenience. Notwithstanding anything to the contrary, (a) Contractor reserves the right to pursue and obtain injunctive or equitable relief from a court of law; (b) if a lawsuit or arbitration is brought against Contractor in a court of law and such claims involve, directly or indirectly, Subcontractor's Work, Contractor reserves the right to join Subcontractor in such arbitration or lawsuit, and (c) if any claims by Subcontractor involve, directly or indirectly, the work or obligations of other persons, Contractor reserves the right to join such other persons to its arbitration or litigation with Subcontractor. The prevailing party shall be entitled to recover its reasonable costs and attorneys' fees from the non-prevailing party in connection with the dispute.

## 12. TAXES

Subcontractor shall, unless otherwise stated in this Subcontract, pay all taxes, levies, duties, and assessments of every nature due in connection with the Work under this Subcontract and shall make any and all payroll deductions and withholdings required by law and hereby indemnifies and holds harmless Contractor and its Client from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

Unless otherwise provided herein, the price of the supplies/services includes all applicable federal, state and local taxes.

## 13. HEALTH, SAFETY, AND ENVIRONMENT (HSE)

Subcontractor shall at all times be solely responsible for all aspects of safety in connection with Subcontractor's and any Lower Tier Subcontractor's Work, including initiating, maintaining, supervising and complying with all safety precautions and plans, even if Contractor establishes a safety program for the entire Project. Such responsibility includes, without limitation, the obligations set forth in the remainder of this Article. Subcontractor shall perform Subcontractor's Work or ensure that it is performed, in a manner to avoid risk of injury to persons or damage to property and shall continuously inspect Subcontractor's Work, which includes all of Subcontractor's materials, equipment and lower tier subcontractors, to discover the existence of any conditions which impose a risk of bodily injury or damage to property.

Subcontractor agrees that failure to comply with the provisions of this Article may be grounds for withholding payment to Subcontractor and/or be a material breach of this Subcontract, which may lead to termination of this Subcontract by Contractor.

Prevention of accidents on or near Subcontractor's Work is Subcontractor's responsibility. Subcontractor shall take all necessary precautions to assure the safety of all persons and property during performance of Subcontractor's Work and will protect Subcontractor's Work and adjacent property from damage caused by Subcontractor's operations. Subcontractor will conform to all laws and regulations (including 29 CFR 1920, 29 CFR 1926, EM 385-1- and therein referenced standards) relating to health and safety and with site-specific health and safety plans, which are available upon request.

Subcontractor shall designate a qualified safety representative at the Project site with responsibility for preventing accidents and implementing and supervising the Safety Plan and other safety programs. The safety representative shall attend all project safety meetings, participate fully in all activities outlined in the Safety Plan and shall devote whatever time is necessary to perform such duties properly.

Subcontractor's safety representative shall provide Contractor's health and safety staff with requested information and shall have the authority to immediately correct any safety deficiencies. In addition, whenever Subcontractor's onsite manpower reaches 10 workers, a full-time health and safety representative shall be provided onsite. This representative must be dedicated to health and safety on this Project with no other onsite or offsite duties.

Subcontractor shall comply with and secure the compliance of its employees, lower tier subcontractors, suppliers and agents with applicable Laws, its Safety Plan and those of Contractor or the Owner, if any, and with the reasonable recommendations of insurance companies having an interest in the Project.

Prior to beginning Subcontractor's Work, Subcontractor shall submit for Contractor's review requested project specific written Safety Plans for the contracted work they will be performing. These Plans may have specified content requirements based on client expectations and shall conform to those expectations required or recommended by governmental and quasi-governmental authorities having jurisdiction and by Contractor and Owner, including, but not limited to, requirements imposed by the Contract Documents. Subcontractor will conspicuously post the Safety Plan at the Project site when requested.

A minimum of one week prior to mobilization to the project site, Subcontractor shall develop and submit project and task specific Activity Hazard Analysis (AHAs) according to the template that can be found at <https://www.ses-grp.com/wp-content/uploads/AHA-Sample.pdf> for review by Contractor's HSE. The AHAs will be developed by, or at a minimum contain input from, employees who will themselves be partaking in execution of the work. The AHAS will sequentially identify the tasks to be completed in each phase of work. The risk in performance of each task will be analyzed and the task specific hazards that are associated with each sequenced task will be identified. Safeguards and control measures will then be developed to eliminate or minimize exposure to the identified hazard and thereby remove or greatly reduce the potential for harm to Subcontractor's employees or other assets. The residual risk will be ranked according to the risk probability VS severity chart in the Risk Assessment Code matrix.

Subcontractor's requirements and submittals for the project prior to work will include elements below.

Training. Subcontractor is responsible for the safety education of their employees. The training must comply with all laws and standards and include additional safety training for site supervision. Prior to performing work, Subcontractor shall provide copies of training certificates to Contractor for all

operations, which require such training. Safety training records shall be up to date and available upon request at the project site. At a minimum, the following training is required:

- Supervisor Safety Training/Site Safety and Health Officer (SSHO) Training – must cover record keeping, incident investigation, OSHA inspections, H&S documentation requirements, and the OSHA 30-hour Construction Outreach course.

- Competent Person Training – each person designated as a competent person shall have related experience and attend training on that particular operation or be designated in writing as such by authorized representative of subcontractor management. The competent person(s) name must be included in the AHAs.

- Employee Orientation Safety Training – subcontract employees must attend safety orientation training. This training will cover applicable safety policies, safety manuals, plans, Activity Hazard Analysis, first aid provisions, accident reporting procedures, daily pre-task safety meeting participation, personal protective equipment, and enforcement procedures.

- Emergency Procedures – must cover notification procedures, evacuation routes, mustering points, and accountability.

- Daily Pre-Task Safety Meetings – must be conducted daily prior to the start of work with all Subcontractors' onsite personnel. Documentation detailing the subject discussed and signatures of all participants must be kept for each meeting.

- Hazard Communication Standard – must cover all aspects of the GHS standard including SDSs, chemicals onsite, labeling and the written program.

- Lockout-Tagout/Energy Isolation – must cover each individual piece of potentially energized machinery or equipment that is to be serviced, installed, removed or altered during this Project.

- Working Alone – must cover communications, control measures, and emergency procedures for working alone. Working alone includes any task where the risk of injury or illness is increased without assistance or direct communication with other workers located in close proximity, or when working in a remote area without reliable means for summoning emergency support.

Incident Reporting and Investigation. Subcontractor must report all incidents including injuries, illnesses, asset damage, exposures above acceptable limits, fires, explosions, spills, permit or permit-equivalent exceedances, or near misses to Contractor immediately (within 1/2 hour of incident). An incident investigation that includes a causal analysis and corrective actions must be conducted and a complete report issued to Contractor within 24 hours of incident. A daily verbal update will be provided to Contractor until corrective actions are completed, claimant is released to full-duty and/or claim has been resolved.

First Aid/CPR/Bloodborne Pathogens. A minimum of two First Aid/CPR/Bloodborne Pathogens trained persons must be on site anytime work is being performed at the project site.

Personal Protective Equipment. Subcontractor shall provide and inspect all personal protective equipment (PPE) prior to each use. In addition, Subcontractor shall enforce the use of PPE by its employees whenever required. A dress code, including hard hats, ANSI Type II high visibility apparel when working adjacent to traffic or heavy equipment, steel or composite-toe work boots meeting the requirements of ASTM, ANSI Z-87 safety glasses with side shields, and appropriate clothing (long pants and sleeved shirts that must cover torso) is required on all Contractor projects.

Fall Protection. Subcontractor shall provide and ensure the use of continuous fall protection equipment when activities take place 6 feet or more above a lower level. Fall protection specifics including the name of the fall protection competent person are required to be included in the subcontractor's Activity Hazard Analysis (AHAs).

HAZCOM. Subcontractor shall provide Contractor with a copy of the current GHS compliant Safety Data Sheets (SDSs) required by the Hazard Communication Standard for all hazardous chemicals or substances brought onsite by Subcontractor or any lower-tiered Subcontractors. Subcontractor shall maintain all SDSs at the worksite in a notebook readily available for inspection with an index. If such materials or substances are part of any item requiring a shop drawing or other submittal, the SDS will accompany the submittal.

Daily Safety Meeting and Pre-Task Safety Plans. Subcontractor shall prepare a Pre-Task Safety Plan (PTSP) and hold a daily safety meeting to review with work crew (including lower-tiered subcontractors) the hazards posed and the required hazard control measures for each day's planned activities. Subcontractor shall maintain records of daily safety meetings and Pre-Task Safety Plans including topics discussed and attendees. A copy of a Pre-Task Safety Plan is included at <https://www.ses-grp.com/wp-content/uploads/Pre-Task-Safety-Plan.pdf>.

Safety Observations. Subcontractor shall implement a Safety Observation program at the project site and conduct a minimum of one Safety Observation per week if work is performed at the project site.

Safety Inspections. Subcontractor shall conduct and document regular inspections for health, safety, and environmental conditions at the project site and promptly implement any needed corrective actions. A minimum of one documented inspection shall be conducted per week if work is conducted at the project site.

Competent Person. Subcontractor agrees to provide a competent person onsite at all times during operations which require such according to the OSHA regulations. This person must be experienced in the operation and have received detailed training on the regulations pertaining to the operation.

Housekeeping and Site Services. Subcontractor is solely responsible for good housekeeping in their work areas. Subcontractor is responsible for supply drinking water, adequate toilets, washing facilities, fire extinguishers, first aid kits and jobsite posters per OSHA requirements unless specifically stated elsewhere in this Subcontract as a service to be furnished by others.

Construction Equipment. Subcontractor shall operate and maintain any construction equipment such as motorized vehicles, heavy equipment, drill rigs, water trucks, and haul trucks in a safe and compliant manner. All construction equipment is to be new or like new and have documented preventive maintenance meeting the manufacturer's minimum recommendations. Documentation shall be readily available for inspection. Construction equipment must be operated by individuals qualified in the operation of specific equipment being used. Subcontractor may be requested to provide written documentation of operator's qualifications of experience and or training to operate said equipment.

Lower-Tier Subcontractors: Subcontractor agrees to perform a Safety and Health pre-qualification of all lower-tiered subcontractors prior to contract award. Pre-qualification records shall be maintained by the subcontractor and made available for inspection by Contractor. Lower-tiered subcontractors must show their ability to comply with Safety and Health requirements by completing a written questionnaire outlining their health and safety program components, incident history, experience modification ratings, Safety violations/citations and training programs for the previous 3 years. Subcontractor shall not accept lower-tiered subcontractors that have had fatalities, incident statistics greater than the applicable NAICS industry classification average, workers' compensation experience modification rates exceeding 1.0, excessive past Safety violations/citations or inadequate HSE training programs for the anticipated work.

# General Terms and Conditions

Use of Lower Tier Subcontractors that do not meet these minimum Safety pre-qualifications requires prior written notification to Contractor for acceptance.

Subcontractor's employees and those of its lower tier subcontractors shall have received appropriate training before beginning Subcontractor's Work at the Project site. Subcontractor shall furnish appropriate safety equipment for Subcontractor's Work in progress, train appropriate personnel in the use of the equipment and enforce the use of such equipment by its employees and those of its lower tier subcontractors.

Subcontractor shall be solely responsible for the design, construction, installation, use and adequacy of all temporary supports, shoring, bracing, scaffolding, machinery or equipment, safety precautions or devices and similar items used by Subcontractor and all lower-tiered subcontractors during performance of Subcontractor's Work.

Temporary structures such as fabrication shops, storage areas, and offices will not be permitted within existing facility structures unless approved by the Contractor. Such temporary structures, if permitted inside or adjacent to existing facility structures, must be constructed of fire-retardant materials.

A copy of Subcontractor's Professional License and Registration for the applicable State/County/City shall be provided to Contractor upon request.

Contractor may stop any part of the Work which Contractor deems unsafe until corrective measures satisfactory to Contractor shall have been taken. Contractor's review of Subcontractor's Safety Plan, AHAs, its observations or failure to stop Subcontractor's unsafe practices shall not relieve Subcontractor of its sole responsibility for safety, limit Subcontractor's obligation to undertake any action necessary to maintain a safe environment or create an obligation for Contractor. Subcontractor shall indemnify Contractor for fines, damages or expenses incurred by Contractor because of Subcontractor's (including any lower tier subcontractor(s)) failure to comply with safety requirements.

Drug Free Workplace. Subcontractor's project Drug Free Workplace policy must at a minimum meet the requirements of Contractor's Drug Free Workplace policy found at <https://www.ses-grp.com/wp-content/uploads/Drug-Free-Workplace-Policy.pdf>. Subcontractor's workers may be requested to submit to substance abuse testing upon suspicion by Contractor's representative, or following a significant incident involving personal injury, or property damage.

## 14. WAIVER

No waiver by the Contractor of any breach of this Subcontract shall be held to be a waiver of any other or subsequent breach. All rights and remedies available to the Contractor shall be taken and construed as cumulative, that is, in addition to any other rights and remedies provided herein or by law.

## 15. INSURANCE

(a) The Subcontractor shall procure and maintain insurance coverages as required by the Owner and/or Contractor at Subcontractor's sole expense and with insurance companies with a minimum A- rating by A.M. Best Company. Prior to moving on the site or starting the Subcontract Work, whichever is earlier, Subcontractor must submit a certificate of insurance naming Contractor as the certificate holder, reflecting its general liability, umbrella, workers' compensation, automobile, equipment, and professional coverages required on the Project. Subcontractor shall maintain such coverage throughout the period of performance of this Subcontract and all warranty periods applicable to the Work being performed by Subcontractor. In the event the Subcontractor fails to obtain insurance coverage required under this Subcontract, the Contractor may terminate this Subcontract for default.

(b) ADDITIONAL INSURED. Subcontractor shall, in addition to and without limitation of the requirements established herein, cause the insurance policies described herein to include Contractor, its parent, subsidiaries and affiliated companies or of any named working interest owners or joint ventures and all of their officers, directors and employees as additional insureds except for Workers' Compensation and Professional Liability coverages. The Subcontractor's insurance shall include contractual liability insurance covering the Subcontractor's obligations under this Subcontract and shall provide specific policy coverage to Subcontractor, Contractor and Owner for the generally insurable elements of the indemnity and hold harmless agreement contained in Article entitled Indemnification. All policies shall provide coverage on a primary basis.

(c) REQUIRED LIMITS OF LIABILITY. The general liability, umbrella, workers' compensation, automobile, equipment, and professional coverages, required, shall be written with limits of liability as listed at (k).

(d) NUMBER OF POLICIES. Comprehensive or Commercial General Liability Insurance and other liability insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy.

(e) WAIVER OF RIGHTS. Subcontractor's insurance will be primary, and Contractor's and Owner's insurances will be secondary and non-contributing at all times. Subcontractor shall require all lower-tier subcontractors to maintain the required insurance for the duration of the Subcontract and to produce evidence of such insurance as may be reasonably requested by Contractor. Subcontractor agrees to waive any and all rights of subrogation which it or its insurers have or may have against Contractor or Owner and their agents, representatives, employees, officers, directors, sureties, and insurers for any loss, expense or damage to the extent covered by Subcontractor's insurance or any other property or equipment insurance, except such rights as they may have to the proceeds of such insurance; provided, however, that such waiver shall not extend to the acts or omissions of the Subcontractor's subcontractors, consultants, and the agents or employees of any of them.

(f) LOWER TIERS. Subcontractor shall be responsible for any liability arising directly or indirectly out of the work performed by each of its lower tier subcontractors that is not otherwise covered by such Subcontractor's insurance.

(g) NOTICE. Subcontractor must notify Contractor immediately in the event any insurance coverage required by this Subcontract has or will become ineffective for any reason. The notice shall provide the date(s) and identify the specific coverage(s) that has or will become ineffective and a certificate of replacement or continued insurance showing evidence of coverage as required by this Subcontract or a request for Contractor to obtain replacement insurance coverage at Subcontractor's expense or terminate this Subcontract for default. If Subcontractor's insurance coverage becomes ineffective and the Subcontractor has failed to provide the above-required notice, the Subcontractor shall indemnify Contractor against any claim resulting from Subcontractor's liability arising out of Subcontractor's operations, completed or otherwise, under this Subcontract that is not covered by Subcontractor's insurance. Subcontractor's failure to provide insurance as required by the Subcontract may result in withholding of payment.

(h) OPERATIONS LIABILITY. The Subcontractor shall maintain completed operations liability insurance for one year after acceptance of the Subcontract Work, substantial completion of the project, or to the

time required by the Subcontract Documents, whichever is longer. The Subcontractor shall furnish the Contractor evidence of such insurance at the time of completion of the Subcontract Work.

(i) ENDORSEMENT. If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

(j) If FAR Clause 52.228-5 is listed at Attachment 1, then the following language must be included on Subcontractor's certificate of insurance: Any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which the contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(k) INSURANCE LIMITS: In accordance with the Article entitled Insurance of the Subcontract, Subcontractor shall provide and maintain coverage with the following limits of liability:

1. Commercial General Liability Insurance including products-completed operations with a limit of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate
2. Automobile Liability Insurance with a combined single limit of \$1,000,000 Each Accident
3. Workers' Compensation and Employer's Liability Insurance with statutory limit for Workers' Compensation and Employer's Liability limits as follows:
  - 3.1. Bodily Injury by Accident: \$1,000,000 each accident
  - 3.2. Bodily Injury by Disease: \$1,000,000 each employee
  - 3.3. Bodily Injury by Disease: \$1,000,000 policy limit
  - 3.4. For monopolistic states (WA, WY, OH, ND) Workers' Compensation, and when applicable, Employer's Liability, must meet the referenced limits and be provided by the applicable state administered program.

4.  If checked, PROFESSIONAL LIABILITY INSURANCE is required for this Subcontract. When required, Subcontractor and all lower-tier subcontractors shall obtain professional liability insurance for claims arising from the negligent performance of professional services under this Subcontract, written for \$1,000,000 per claim and in the aggregate. Professional Liability Insurance shall contain coverage sufficient to cover all services performed by the Subcontractor. These requirements shall be continued in effect for three (3) year(s) after the Date of Substantial Completion.

5.  If checked, CONTRACTOR'S POLLUTION LIABILITY INSURANCE is required for this Subcontract. When required, Subcontractor and all lower-tier subcontractors shall obtain pollution liability insurance for claims arising from the negligent performance of services involving demolition of pre-existing structures, excavation, moving or removal of any hazardous or contaminated materials, or handling of any hazardous or contaminated materials (to include asbestos and lead), written for \$1,000,000 per claim and in the aggregate.

These requirements shall be continued in effect for three (3) years after the Date of Substantial Completion. All deductibles shall be paid by Subcontractor.

## 16. SEVERABILITY AND INTERPRETATION

If one or more of the provisions contained herein shall be held for any reason to be invalid, illegal, or unenforceable in any respect, such provision shall not affect any other provision herein, and this Subcontract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

## 17. STANDARD OF CARE

Subcontractor represents that its employees shall, in performing the work hereunder, exercise that degree of skill and judgment, care and diligence consistent with the applicable industry standards and shall perform all work in accordance with any and all drawings, specifications or requirements provided by Contractor and/or Client. Subcontractor will promptly make good by replacement or correction at its sole expense any defective work, any defect in materials or workmanship, including the restoration of any work of Contractor or other subcontractors that has been affected thereby.

Subcontractor further represents that its personnel are fully trained and qualified to perform the work for which they are assigned hereunder and to safely operate those systems which they will be operating in performing the work hereunder. Upon written request from Contractor, Subcontractor shall immediately remove any personnel deemed by Contractor to be unsatisfactory or incompetent to perform the work. Contractor shall not unreasonably request such removal.

## 18. SURVIVABILITY

If this Subcontract expires, is completed or is terminated, Subcontractor shall not be relieved of the obligations in the following provisions:

- Compliance with Laws; Warranties; Indemnification; Confidentiality; Disputes;
- Those U.S. Government flowdown provisions incorporated into this Subcontract that by their nature should survive.

## 19. NOTICES

Any notice to be given under this Subcontract issued under the Terms and Conditions hereunder must be in writing. Notices may be sent via certified or registered mail; via fax with a conforming copy; or via electronic means provided an electronic signature confirms its authenticity, in a manner agreed to in advance. Notice will be deemed to have been given when received. All notices from Subcontractor to Contractor should be mailed to the attention of the Contracts Manager, at the facility from which the specific Subcontract was issued.

## 20. SMALL BUSINESS CERTIFICATION

By initiating below, Subcontractor certifies it is properly and currently qualified, in accordance with applicable regulations, as the following type(s) of business:

- 8(a) Small Disadvantaged Business
- Other Small Disadvantaged Business
- Woman-Owned Small Business
- Service-Disabled Veteran-Owned Small Business
- Veteran-Owned Small Business
- HUBZone Small Business
- Other Small Business
- Large Business
- Sole Proprietor

# General Terms and Conditions

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If Subcontractor is uncertain of which business type applies, see the CFR Title 13, subparts 121.410 and 121.411. Further guidance regarding appropriate size standards may be found at <http://www.sba.gov/size> as well as FAR 19.7 or 52.219-8.

## **21. SECURITY**

If work is to be performed on a military or Government installation, or any other site in which the Client has implemented a security program that must be observed by all agencies and individuals, Subcontractor, its personnel and other sub-subcontractors or vendors acting on its behalf must comply with the existing security regulations currently in force while engaged in work at the site. If badges are required for the Work, they will be issued by Contractor. Any badge issued on behalf of Subcontractor its sub-subcontractors, employees, vendors, or any others acting on Subcontractor's behalf must be returned before final payment can be made. If any badges are not returned, any fines, penalties, or other assessments made by the Client for the failure to return will be assessed to Subcontractor and may be taken out of the final payment due. If the fine, penalty or assessment exceeds the amount due to Subcontractor, Subcontractor will pay the difference within ten (10) days of receipt of written notice. Failure to comply with these provisions constitutes a default and all rights and remedies available under contract and by law are applicable. In addition to any site badging requirements, Subcontractor and those acting on its behalf will observe and strictly adhere to any Client site rules, policies, and procedures, and standards of conduct.



# General Terms and Conditions

## ATTACHMENT 1

This Subcontract is for the performance of work under a Federal Prime Contract subject to the Federal Construction Wage Requirements. The Subcontractor shall comply fully with the Construction Wage Requirements and all prime contract flowdown clauses listed herein. Subcontractor agrees that such provisions are fully incorporated herein as if completely rewritten herein except that the word "Contractor" shall be substituted for the word "Owner" and the word "Subcontractor" shall be substituted for the word "Contractor".

The Parties have designated below representatives and addresses with responsibility for submittal documents, correspondence, and all other matters relating to Subcontractor's compliance with the Construction Wage Requirements and related regulations. Subcontractor acknowledges that the required submittals listed in this clause are vital to the progress and completion of the Work. Accordingly, Subcontractor grants Contractor's Submittal Representative set forth below, and as designated hereafter, the permission and authority to contact any sub-subcontractors directly to discuss the required submittals. Contractor's Submittal Representative must receive all submittals listed herein or directly from the sub-subcontractors. Notwithstanding, Subcontractor retains full responsibility for its sub-subcontractors' compliance.

Submittal Representatives:

**For the Contractor**

SES group of companies  
Attn: Certified Payrolls  
2060 Wineridge Place, Suite A  
Escondido, CA 92029  
[Const-compliance@ses-grp.com](mailto:Const-compliance@ses-grp.com)

**For the Subcontractor**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Required Submittals:

- All certified payroll reports for this project are to be reported through the electronic software system called e-Mars. Instructions for using e-Mars can be found at <https://www.ses-grp.com/wp-content/uploads/Certified-Payroll-Information.pdf>.
- Form SF1413 "Statement and Acknowledgment" (attached) – This form must be completed and submitted to Contractor by Subcontractor and all sub-subcontractors (if any) used by the Subcontractor under this Subcontract. Instructions for completing this form are available from Contractor.
- Form WH347 Payroll Reporting Form (available from Contractor) - This form must be submitted on a weekly basis to the Contractor, even when there is no payroll to report for the week.

The Subcontractor shall include the terms of this clause, including this paragraph, in lower tier sub-subcontracts and purchase orders awarded under this Subcontract.

### APPLICABLE FEDERAL ACQUISITION REGULATIONS INCORPORATED BY REFERENCE

(The most recent edition of the clauses shall apply)

- 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation
- 52.222-6 Construction Wage Requirements
- 52.222-7 Withholding of Funds
- 52.222-8 Payrolls and Basic Records
- 52.222-9 Apprentices and Trainees
- 52.222-10 Compliance with Copeland Act Requirements
- 52.222-11 Subcontracts (Labor Standards)
- 52.222-12 Contract Termination – Debarment
- 52.222-13 Disputes Concerning Labor Standards
- 52.222-15 Certification of Eligibility

### APPLICABLE WAGE DETERMINATION -

#### HAZARDOUS MATERIALS ABATEMENT INSURANCE

- a. If hazardous materials (e.g., asbestos, lead-based paint, polychlorinated biphenyl (pcb) compounds) abatement/removal or any other work with hazardous materials is required under this Subcontract and Comprehensive General Liability Insurance is required, the policy of insurance which covers the hazardous materials abatement/removal or other work with asbestos shall be a "per occurrence" policy as that term used in the insurance industry. A policy issued on a "claims made" basis or any other "short tail" basis will not be accepted.
- b. The Comprehensive General Liability per occurrence policy shall be obtained by the prime Contractor if the hazardous materials abatement work is performed by the prime Contractor's own work force, or by any hazardous materials abatement subcontractor(s), if the hazardous materials abatement work is subcontracted.

The Subcontractor shall insert in any lower tier subcontract a requirement for the hazardous materials abatement subcontractor(s) to provide and maintain the insurance required by this paragraph.