

Commercial Subcontract Terms and Conditions



1. Acceptance of Subcontract. Subcontractor's acknowledgment, acceptance of payment, or commencement of performance constitutes Subcontractor's unconditional acceptance of this Subcontract. Unless expressly accepted in writing and signed by SRI, any additional or different terms or conditions proposed by Subcontractor or included in Subcontractor's acknowledgment are objected to by SRI and have no effect.

2. Communication with Customer. SRI is solely responsible for all liaison and coordination with SRI's customer as it affects the applicable prime or higher-tier contract, including the work performed under this Subcontract. Subcontractor acknowledges it has no privity of contract with the customer.

3. Key Personnel. If any Subcontractor key personnel are specified in the Subcontract Schedule, such personnel are considered to be essential to the work being performed hereunder. Subcontractor shall not remove any key personnel without the written consent of SRI. Subcontractor shall notify SRI reasonably in advance of any proposed removal of key personnel, describing in sufficient detail to permit evaluation of the impact on the work the justification for removal and the proposed substitute staff.

4. Contract Direction. Only a SRI subcontracts representative has the authority on behalf of SRI to make changes to this Subcontract. Any changes must be made in writing and signed by both parties. SRI technical or business staff may from time to time render assistance, give technical advice, or exchange information with Subcontractor's personnel. No action by SRI technical or business staff constitutes a change under the 'changes' clause of this Subcontract, and is not a basis for an equitable adjustment. Any Subcontractor effort pursuant to instructions other than written instructions from a SRI subcontracts representative is at Subcontractor's sole risk.

5. Changes. SRI may, by written notice, direct changes within the general scope of this Subcontract in any of the following: (a) technical requirements and descriptions, specifications, statement of work, drawings, or designs; (b) shipment or packing methods; (c) time and place of performance, delivery, inspection, or acceptance; (d) reasonable adjustments in quantities and delivery schedules; and (e) amount of Furnished Property. If a change increases or decreases Subcontractor's cost or time to perform this Subcontract, the parties shall negotiate an equitable adjustment in price or schedule or both, and SRI shall modify this Subcontract in writing accordingly. Failure of the parties to agree upon an adjustment does not excuse Subcontractor from performing previously agreed upon work. Subcontractor must assert any claim for adjustment within 30 days of receipt of notice of the change. SRI may examine Subcontractor's books and records to verify the amount of the claimed adjustment. Nothing in the foregoing obligates Subcontractor to continue performance or incur costs beyond the point established, if applicable, in any Limitation of Cost or Limitation of Funds articles in this Subcontract.

6. Timely Performance. Subcontractor's timely performance is a critical element of this Subcontract. If Subcontractor becomes aware of any difficulty in performing its work hereunder, Subcontractor shall promptly notify SRI in writing giving pertinent details of the reason for the delay and the actions being taken to overcome or minimize the delay. Such notification does not constitute a change to any delivery schedule or other due dates.

7. Access to SRI Facilities. If access to SRI facilities is permitted under this Subcontract, Subcontractor's personnel shall comply with all SRI security, safety, rules of conduct, badging and personal identification, and related requirements while on SRI property. Before access is granted, Subcontractor shall provide any information reasonably required by SRI to ensure proper identification of authorized Subcontractor personnel. SRI may, in its sole discretion, remove any Subcontractor employee from SRI facilities.

8. Intellectual Property. As part of this agreement and without additional compensation, Subcontractor agrees to and does hereby sell, assign, and transfer to SRI all right, title, and interest in and to any and all inventions, discoveries, or improvements that Subcontractor conceives (alone or with others) in the performance of this Subcontract ("Inventions"), and to all applications and patents claiming the Inventions. Subcontractor shall provide complete information to SRI about each Invention. Subcontractor shall execute all documents, and provide reasonable assistance to SRI to obtain, perfect and maintain SRI's interest in Inventions and patents thereon.

All Inventions shall be SRI's property, whether or not SRI elects to file patent applications on the Inventions. Subcontractor shall provide a complete list of all Inventions conceived pursuant to this agreement before submitting a final invoice. Further, Subcontractor agrees to and does hereby sell, assign, and transfer to SRI without further consideration all right, title, and interest in and to all material produced by Subcontractor (whether alone or in conjunction with others) under this Subcontract, including all data, designs, developments, documents, formulae, improvements, log books, papers, processes, programs, prototypes, records, samples, software, and techniques. Subcontractor will provide to SRI, at SRI's expense, all such assistance as SRI may reasonably request to secure for SRI and maintain for SRI's benefit all trademarks and trade names and registrations thereof, copyrights and registrations, extensions, and renewals thereof on all such material, including any translations.

9. License to SRI. Subcontractor hereby grants to SRI a nonexclusive, royalty-free, paid-up, right and license to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works of, and authorize others to do any, some, or all of the foregoing, with respect to any and all pre-existing Subcontractor inventions, discoveries, improvements, maskworks, patents, data, copyrights, software, and works of authorship that are included in or practiced by any work product delivered to SRI under this Subcontract.

10. Intellectual Property Warranty. Subcontractor warrants that the work performed hereunder shall be Subcontractor's original work and that all work performed or delivered under this Subcontract will not infringe or otherwise violate the intellectual property rights of any third party. Subcontractor agrees to defend, indemnify, and hold harmless SRI and its customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys fees, arising out of any action by a third party that is based on a claim that the work performed or delivered under this Subcontract infringes or otherwise violates the intellectual property rights of any person or entity. Subcontractor represents and warrants that it has obtained a present assignment of rights in inventions from its employees performing work under this Subcontract.

11. Proprietary Information. Subcontractor shall keep confidential and otherwise protect from disclosure all information and property obtained from SRI in connection with this Subcontract that is identified as confidential or proprietary. Unless expressly authorized in writing by SRI, Subcontractor shall use such information and property only for performance of this Subcontract and shall not disclose such information and property to any third party. However, such obligation shall not apply to information that Subcontractor can demonstrate by its written records was: (a) previously known to Subcontractor; (b) acquired by Subcontractor from a third party having the right to disclose such information; or (c) known to the public, through no fault of Subcontractor. Subcontractor shall maintain data protection processes and systems sufficient to protect SRI provided information and property. Subcontractor shall promptly report to SRI any discovered unauthorized access to or use of information. The provisions of this Article are superseded by any nondisclosure agreement between the parties that is attached to this Subcontract.

12. Third Party Materials. Subcontractor shall obtain SRI's written consent before incorporating any third party copyrighted material, including but not limited to so-called 'free' or 'open source' software into any deliverables under this Subcontract. Subcontractor warrants that it has sufficient rights in such third party content to permit use and further distribution by SRI and SRI's customer.

13. General Warranty. Subcontractor warrants that all work furnished pursuant to this Subcontract will conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Subcontract and shall be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one year. If any nonconforming work is identified within the warranty period, Subcontractor, at SRI's option, shall promptly repair, replace, or reperform the work. Unless otherwise specified, transportation of replacement work, return of nonconforming work, and reperformance of work shall be at

Subcontractor's expense. If repair, replacement, or reperformance of work is not timely, SRI may elect to return, reperform, replace, or reprocure the nonconforming work at Subcontractor's expense. Either SRI or its customer may make claims against this warranty.

14. Furnished Property. SRI may provide to Subcontractor certain SRI (or SRI customer) owned property ("Furnished Property"). Furnished Property may only be used for the performance of this Subcontract. Title to Furnished Property remains vested in SRI (or its customer, as applicable). Subcontractor shall clearly mark all Furnished Property to show its ownership. Subcontractor is responsible for all loss of or damage to Furnished Property, other than reasonable wear and tear. Subcontractor shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice. At SRI's request, and upon closeout of this Subcontract, Subcontractor shall submit an inventory of Furnished Property to SRI, and shall deliver or otherwise dispose of Furnished Property as directed by SRI.

15. Counterfeit Parts. Subcontractor shall not deliver any part to SRI that is mislabeled or otherwise misrepresented as being of a different class, quality, or source than is actually the case, including (for example) refurbished parts that are represented as new parts and any parts designated as 'suspect' by the United States Government, such as parts listed in Defense Contract Management Agency alerts under the Government-Industry Data Exchange Program. If SRI determines that Subcontractor has supplied parts in violation of the foregoing, or if Subcontractor becomes aware of or suspects that it has furnished such parts, Subcontractor shall immediately replace the suspect or counterfeit part with a genuine version conforming to the requirements of this Subcontract. Notwithstanding any other provision of this Subcontract, Subcontractor is liable to SRI for SRI's costs in removing Subcontractor-supplied suspect or counterfeit parts, reinserting replacement parts, and any testing made necessary by the substitution.

16. Final Payment. Final payment under this subcontract is conditioned upon SRI's receipt and acceptance of all services, reports, and supplies called for hereunder, and the final accounting for and disposition of Furnished Property.

17. Travel Costs. If travel is authorized under this Subcontract, then Subcontractor's actual allowable travel expenses (in accordance with the applicable cost principles for travel) will be reimbursed as part of the Subcontractor's costs. Subcontractor must maintain receipts for all expenses over \$75.00 for which reimbursement is claimed. Lodging receipts must be from establishments serving the general public. Subcontractor shall include a detailed summary of all travel costs by category of expense on each invoice.

18. Stop Work. If SRI initiates a 'stop work' order, Subcontractor shall immediately stop performance of this Subcontract in accordance with the stop work order and shall take all reasonable steps to minimize costs allocable to the Subcontract during the period of work stoppage, including immediately issuing stop work orders to all lower-tier subcontractors. Once the stop work order is no longer necessary, SRI shall either: (a) terminate the Subcontract in accordance with the Termination Article of this Subcontract; or (b) lift the stop work order, and negotiate an equitable adjustment to the price and delivery schedule, if Subcontractor requests such an adjustment in accordance with the Changes Article of this Subcontract.

19. Termination. SRI may terminate this Subcontract, in whole or in part, by sending written notice to Subcontractor: (a) if SRI's customer terminates SRI's contract covering the subcontracted work; (b) if Subcontractor materially breaches any of its obligations under this Subcontract and fails to cure such breach within ten days after receipt of SRI's written notice of the breach; or (c) for convenience, upon receipt of SRI's written notice. Upon termination, SRI's liability for Subcontractor's costs shall be limited to Subcontractor's actual costs incurred before the effective date of termination, plus a reasonable amount to shut down the subcontracted work in a safe manner and to deliver all work in progress to SRI.

20. Shipment. Unless otherwise specified, all deliverables are to be packed in accordance with good commercial practice. A complete packing list shall be enclosed with all shipments. Subcontractor shall mark containers or packages with necessary lifting, loading, and shipping information, including the Subcontract number, item number, date of shipment, and the name and address of consignor and consignee. Bills of lading shall also include this Subcontract number. Unless otherwise specified, delivery shall be FOB SRI's facility. Any tangible media storing reports, memoranda, or other materials

in written form including machine readable form prepared by Subcontractor and delivered to SRI hereunder shall become the sole property of SRI.

21. Gratuities and Kickbacks. Subcontractor shall not offer or give a kickback or gratuity (including in the form of entertainment or gifts) for the purpose of obtaining or rewarding favorable treatment as a SRI supplier.

22. Insurance. Subcontractor and any permitted lower-tier subcontractors shall each maintain at its own expense during the entire period of performance of this Subcontract: (a) workers compensation insurance in amounts required by applicable law; (b) commercial liability insurance and automobile liability insurance, each covering both bodily injury and property damage with a minimum of US\$2,000,000 per occurrence limit. If requested, Subcontractor shall provide SRI with certificates of insurance showing compliance with these requirements.

23. Third Party Harms. Subcontractor assumes full responsibility for any harm it may cause in performance of this Subcontract. Subcontractor shall defend, indemnify, and hold harmless SRI, its officers, employees, and agents from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including reasonable attorneys' fees, all expenses of litigation and settlement, and court costs, by reason of property damage or loss, environmental harm, or personal injury to any person, caused in whole or in part by the acts or omissions of Subcontractor, its officers, employees, agents, suppliers, consultants, or lower-tier subcontractors.

24. Records and Retention. Subcontractor shall maintain adequate records indicating the effort expended in direct performance of this Subcontract. Unless a longer period is specified elsewhere in this Subcontract, or by law or regulation, Subcontractor shall retain all records related to this Subcontract for a period of three years from the date of final payment received by Subcontractor. Records related to this Subcontract include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, shipping, export, and certification records.

25. Waiver, Approvals, and Remedies. Failure by either party to enforce any of the provisions of this Subcontract or applicable law shall not constitute a waiver of the requirements of such provision or law, or as a waiver of a party thereafter to enforce such provision or law. SRI's approval of documents does not relieve Subcontractor of its obligations to comply with the requirements of this Subcontract. The rights and remedies of either party to this Subcontract are cumulative and in addition to any other rights and remedies provided at law or in equity.

26. Export Control. Each party shall control the disclosure of and access to technical data, information, and other items received under this Subcontract in accordance with U.S. export control laws and regulations. Subcontractor shall indemnify, defend, and hold SRI harmless for all liabilities, penalties, losses, damages, costs (including attorney's fees) or expenses that may be imposed on or incurred by SRI in connection with any violations of such laws and regulations by Subcontractor. Subcontractor shall immediately notify SRI if it is or becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or its export privileges are denied, suspended, or revoked. Subcontractor will give immediate written notification to SRI if the items to be delivered or sold to SRI under this Subcontract are restricted by export control laws or regulations prior to the delivery of the items.

27. Anti-bribery. Subcontractor and its officers, directors, employees, and agents have not offered or provided and will not offer or provide, either directly or indirectly, any gift, payment, or other benefit of any kind to any person that constitutes a breach of any applicable domestic or foreign anti-bribery or corrupt practices law in either the United States (including the Foreign Corrupt Practices Act) or any other country in which any products are sold or services are performed under this Agreement. Upon Subcontractor's breach of the foregoing, SRI may terminate this Agreement immediately, notwithstanding any 'cure' period provided in the termination provisions hereof.

28. Compliance with Laws. Subcontractor agrees to comply with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances. Subcontractor shall procure all necessary licenses, permits, and pay all fees and other required charges and shall comply with all applicable guidelines and directives of any local, state, or federal governmental authority. Subcontractor shall comply with all applicable taxes, including payroll taxes and income taxes, and shall pay its employees, vendors, and contractors in compliance with applicable law.

29. Independent Contractors. The parties intend to create an independent contractor relationship. Nothing herein creates a partnership, joint venture, agency, employment, or other business relationship between the parties. Subcontractor will not represent itself as an agent of SRI, nor indicate that Subcontractor has the right to obligate SRI in any way. Subcontractor is solely responsible for providing all resources, materials, and facilities needed to accomplish the work required; SRI's facilities may not be used for the performance of the efforts required except as expressly identified herein.

30. Chemicals. Subcontractor represents that each chemical substance constituting or contained in work sold or otherwise transferred to SRI hereunder is on the list of chemical substances compiled and published by the administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.) as amended. Subcontractor shall provide to SRI with each delivery, any Material Safety Data Sheet applicable to the work, in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated there under, or its state approved counterpart.

31. Applicable Law. The laws of the State of California govern this Subcontract, without regard to its conflict of laws provisions.

32. Severability. If any provision of this Subcontract or application thereof is found invalid, illegal, or unenforceable by law, the remainder of this Subcontract will remain valid, enforceable, and in full force and effect, and the parties will negotiate in good faith to substitute a provision of like economic intent and effect.

33. Electronic Signatures. The parties agree that if this Subcontract is transmitted electronically, neither party shall contest the validity of this Subcontract, or any acknowledgment thereof, on the basis that this Subcontract or acknowledgment contains only an electronic signature.

34. Entire Agreement. This Subcontract integrates, merges, and supersedes any prior offers, negotiations, and agreements (including any letter subcontract or letter of authorization) concerning the subject matter hereof, and constitutes the entire agreement between the parties.

35. Dispute Resolution. All disputes under this Subcontract that are not disposed of by mutual agreement may be decided by an action at law or in equity. Until resolution of any dispute, Subcontractor shall proceed diligently with the performance of this Subcontract as directed by SRI.

36. Headings. The headings used in this Subcontract are for the convenience of the parties only and do not define, limit, or describe the scope or intent of the provisions of the Subcontract.

37. Notice of Disputes. Subcontractor shall promptly notify SRI of any litigation or labor dispute that relates to this Subcontract or that has the potential to impair Subcontractor's ability to comply with the terms of this Subcontract.

38. Assignment. Subcontractor may not assign or novate this Subcontract, or delegate its responsibilities hereunder, without the prior written consent of SRI, and any purported assignment is void.

39. Use of Name. Subcontractor may not use the names "SRI," "SRI International," or any other trademark or logo owned by SRI for marketing or endorsement purposes without the prior written consent of SRI.

40. Survival. Upon expiration or termination of this Subcontract, any clauses which by their nature extend beyond such expiration or termination shall survive.

- END OF TERMS (SC-003 Rev. 4/15) -