

Subcontract Master Service Agreement Number

Version 1.15

ARTICLE 1. Definitions

In this Master Services Agreement (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them, except where the context otherwise requires:

"Agreement" means the Terms and Conditions Articles set forth herein, the Statement of Work, Subcontract/Subaward/Contract(s), the Federal Acquisition Regulation (FAR) and Agency Supplemental Clauses (as applicable), Code of Federal Regulations (CFR), the Supplier's Technical and Cost Proposal, the Representations and Certifications, and such further documents executed by both Parties and expressly incorporated in this Agreement.

"Client" means RTI's customer who is responsible for funding the Subcontract/Subaward/Contract(s) issued under the Agreement.

"Direct Labor" means Supplier personnel performing work under this Agreement.

"Fringe Benefit Expense Rate" means the direct payroll-related expenses including employer-paid Benefits; Social Security and Medicare (FICA); State Unemployment (SUTA); Federal Unemployment (FUTA); Workers Compensation; and Vacation and Holiday Pay. This rate, as defined, shall satisfy the allowability and allocability requirements of Federal Acquisition Regulation (FAR) Part 31, Contract Cost Principles, or 2 CFR 200 Subpart E - Cost Principles, as applicable. The Fringe Expense Rate will be the percentage amount applied to actual Direct Labor expenses incurred under the Agreement's Subcontracts/Subawards/Contracts

"General and Administrative (G&A) Expense" means the Supplier's costs of doing business that are not directly associated with the costs of performing this Agreement or the Supplier's other contracts. These expenses, as defined, must satisfy the allowability and allocability requirements of Federal Acquisition Regulation (FAR) Part 31, Contract Cost Principles, or 2 CFR 200 Subpart E - Cost Principles, as applicable. Similar to the Fringe Benefit Rate, the G&A Expense Rate will be the percentage amount charged in accordance with the Supplier's established method for allocating G&A.

"Lower tier subcontractor/subrecipient" means any person or firm lower-tier subcontractor/subrecipient for a part of the Work or any person or firm to whom a part of the Work has been subcontracted or subawarded and the legal successors in title to such person or firm, but not any assignee of such person or firm.

"Other Direct Costs (ODCs)" mean those expenses that are directly incurred for the benefit of performing the Work under a specific Subcontract/Subaward/Contract(s). For Subcontracts funded with Federal contract funds, these expenses must satisfy the allowability and allocability requirements of Federal Acquisition Regulation (FAR) Part 31, Contract Cost Principles. For Subawards and Contracts under Assistance Awards funded with Federal funds, these expenses must satisfy the allowability and allocability requirements of 2 CFR 200 Subpart E - Cost Principles. Generally, these costs consist of approved travel (hotel, meals, air and rail transportation expenses, car rental), pre-approved equipment, classified ads, and reasonable phone expenses directly charged to the project.

"Parties" as used under this Agreement mean "RTI" and "Supplier."

"Pay Rate" means those actual direct labor expenses that are incurred for the benefit of performing the Work under a specific Subcontract/Subaward/Contract(s). These expenses, as defined, must satisfy the allowability and allocability requirements of Federal Acquisition Regulation (FAR) Part 31, Contract Cost Principles. For Subawards and Contracts under Assistance Awards funded with Federal funds, these expenses must satisfy the allowability and allocability requirements of 2 CFR 200 Subpart E - Cost Principles. The Supplier's actual Pay Rate(s) solely consists of direct labor (gross hourly wage(s)) expenses that are completely unburdened with profit or any application of G&A, overhead or indirect rate expenses.

"Payment" means the remuneration that RTI has agreed to pay Supplier upon the execution, satisfactory completion, and acceptance of RTI's Work set forth the Subcontract/Subaward/Contract(s) issued under this Agreement.

"Provisional billing rate(s)" means the Supplier's temporary indirect rate ceiling(s) used for the purpose of allowing interim reimbursement of incurred indirect fringe and general and administrative costs. The provisional billing rate(s) remain(s) in effect until a final billing rate is negotiated and settled by the parties for the period in accordance with FAR Part 42.700 and the FAR Allowable Cost and Payment clause or 2 CFR 200 Subpart E - Cost Principles, as applicable. The provisional billing rate(s) will be subject to retroactive redetermination and audit by RTI or RTI's Client in order to preclude substantial overpayments to Supplier. Unless terms of the Agreement stipulate otherwise, the Supplier's provisional billing rates represent RTI's maximum liability for the reimbursement of indirect expenses.

"RTI" means the Research Triangle Institute or RTI International.

"RTI Master Service Agreement Administrator" means the designated RTI person(s) who has contractual authority over the terms of the Master Service Agreement. The RTI Master Service Agreement Administrator is the only person authorized by RTI to make changes or amendments to the Master Service Agreement.

"RTI Project Manager" means the designated RTI person who has been provided the technical authority to manage the Work on behalf of RTI. The RTI Project Manager does not have authority to sign and bind RTI to contractual agreements.

"RTI Subcontract/Subaward/Contract Administrator" means the designated RTI person(s) who has contractual authority over the Work being performed pursuant to an individual Subcontract/Subaward/Contract issued under the Master Service Agreement. The RTI Subcontract/Subaward/Contract Administrator is the only person authorized by RTI to make changes or amendments to the issued Subcontract/Subaward/Contract.

"Site or Location" means the place(s) provided by Supplier where the Work is to be executed and any other places as may be specifically designated in the Subcontract/Subaward/Contract as forming part of the Site or Location.

"Statement of Work/Technical Specifications" means the services defined and set forth in an individual Subcontract/Subaward/Contract issued hereunder (hereinafter referred to as the "Work"), that the Supplier is responsible for delivering to RTI.

"Subcontract/Subaward/Contract" means the document that the RTI Subcontract/Subaward/Contract Administrator will use in accordance with the terms of this Agreement to authorize and reasonably request the Supplier to commence Work under and subject to the terms of this Agreement. Subcontract/Subaward/Contract(s) issued under this Agreement fully incorporate by reference the Terms and Conditions of the Agreement which are set forth herein. The term "Subcontract" will be applicable when RTI's prime agreement is a contract and "Subaward" may be applicable when RTI's prime agreement is a cooperative agreement or a grant in with the Supplier is a Subgrantee or Subrecipient. The term "Contract" will be applicable when RTI's prime agreement is a Federally funded cooperative agreement or grant in which the Supplier is contractor, as defined by 2 CFR 200, who a provider of services to RTI.

"Supplier" means the person or firm who's Cost and Technical Proposal has been accepted by RTI and the legal successors in title to such person, but not (except with the written consent of RTI) any assignee of such person or firm. The term "Subcontractor," "Subrecipient" or "Contractor" may be used in place of Supplier where contextually appropriate and/or necessary.

ARTICLE 2. Type of Agreement

- A. This is an Indefinite Delivery/Indefinite Quantity Master Service Agreement (MSA) and the terms and conditions presented in this Agreement shall apply to all Subcontracts/Subawards/Contracts awarded hereunder. RTI will provide work to the Supplier through the issuance of individual Subcontracts/Subawards/Contracts. The Subcontract/Subaward/Contract Procedures are set forth in other Articles hereunder. Subcontracts/Subawards/Contracts issued under this MSA will be either Firm Fixed Price, Time and Materials (T&M), Labor Hour (LH) or Cost Reimbursement (includes Cost Plus Fixed Fee and Cost Plus Award Fee arrangements).
- B. Should RTI issue a Firm Fixed Price Subcontract/Subaward/Contract, Supplier agrees to complete all of the work requirements set forth in an individual Subcontract/Subaward/Contract's Statement of Work and shall invoice RTI in accordance with the Milestone Payment Schedule included therein.
- C. Should RTI issue a Time and Materials or Labor Hour Subcontract/Subaward/Contract, Supplier agrees to use its best efforts to perform all work and obligations under this Master Service Agreement within the prices

established in the particular Subcontract/Subaward/Contract. Supplier shall utilize the labor categories and fully burdened fixed hourly labor rates set forth therein. These fixed rates include the Supplier's direct wages, taxes, fringe, indirect costs, general and administrative cost, and profit. Other direct costs are not allowable costs without the prior written approval of the RTI Subcontract/Subaward/Contract Administrator. Supplier shall perform the work set forth in an individual Subcontract/Subaward/Contract's Statement of Work and invoice RTI for the actual hours performed by Supplier employees utilizing the fixed rates and labor categories set forth therein.

- D. Should RTI issue a Cost Reimbursement Subcontract/Subaward/Contract, Supplier agrees to use its best efforts to perform all work and obligations set forth in an individual Subcontract/Subaward/Contract's Statement of Work and within the ceiling price and funding allocation stated in the individual Subcontract/Subaward/Contract. RTI shall bear no liability beyond the funded amount stipulated in an individual Subcontract/Subaward/Contract.

ARTICLE 3. Term of Agreement

The effective period for this Agreement shall begin on **{insert start date}** and continue until terminated in accordance with such provisions set forth herein. Each Subcontract/Subaward/Contract will establish the actual performance period for the work to be performed under such a Subcontract/Subaward/Contract. All terms contained in this Agreement shall become effective on the date cited in this Article

ARTICLE 4. Subcontract/Subaward/Contract Procedures

- A. RTI will authorize all work under this MSA through the issuance of Subcontracts/Subawards/Contracts. Each Subcontract/Subaward/Contract will be signed by the RTI Subcontract/Subaward/Contract Administrator and accepted by the Supplier. Subcontracts/Subawards/Contracts may be issued at any time during the Agreement's effective period.
- B. Prior to issuing a Subcontract/Subaward/Contract, RTI will provide the Supplier with a Request for Proposal which will include:
- A proposed Statement of Work;
 - Subcontract/Subaward/Contract Type (Firm Fixed Price, Time and Materials, Labor Hour or Cost Reimbursement)
 - The components of the offer to be submitted;
 - The format for submission;
 - The time frame for submission of the offer;
 - The basis for selection; and
 - Any other relevant instructions to the Supplier.
- C. Supplier shall acknowledge receipt of each Request for Offer in writing by an authorized company officer within the time frame specified in the Request of Offer and respond with a technical and/or cost proposal (Subcontract/Subaward/Contract Offer) within the specified time frame. The technical proposal will delineate the Supplier's interpretation for performing the Statement of Work, and the pricing proposal will constitute Supplier's firm offer in accordance with the requirements of the Request for Offer.
- D. Issuance of a Subcontract/Subaward/Contract to Supplier in response to Supplier's Subcontract/Subaward/Contract Offer shall be at RTI's sole discretion and is further contingent upon:
- RTI's receipt of an executed award from the Client;
 - Receipt of funding from RTI's Client; and/or
 - The receipt of any required approvals from RTI's Client.

Each issued Subcontract/Subaward/Contract will include the following:

- A Statement of Work;
- Supplier's Budget for performing the Subcontract/Subaward/Contract;
- Period of Performance;
- Subcontract/Subaward/Contract Type (Firm Fixed Price, Time and Materials, Labor Hour or Cost Reimbursement); and
- Any other pertinent information, including applicable special terms and conditions.

- E. The completion date of a Subcontract/Subaward/Contract may extend beyond the ending date of this Agreement.
- F. Under no circumstances may the Supplier start work prior to the issuance date of the Subcontract/Subaward/Contract unless specifically authorized to do so by the RTI Subcontract/Subaward/Contract Administrator in writing. Any work commenced prior to the actual issue date will be considered unauthorized and will not be subject to ratification or reimbursement.
- G. Subcontracts/Subawards/Contracts shall not allow for any change to the terms or conditions of this Agreement. Notwithstanding, a Subcontract/Subaward/Contract may supplant any terms or conditions set forth in this Agreement on an individual Subcontract/Subaward/Contract basis, however, such a replacement of a particular term or condition set forth in this Agreement by an individual Subcontract/Subaward/Contract shall have no effect on the terms actually set forth in the Agreement, but rather will only be applicable to said Subcontract/Subaward/Contract. The replacement of terms or conditions set forth in an individual Subcontract/Subaward/Contract shall not be considered a modification to the Agreement, nor constitute a waiver of any rights or to grant relief from any stated obligations.
- H. Past Performance on Subcontracts/Subawards/Contracts. RTI will evaluate the Supplier's prior performance on Subcontracts/Subawards/Contracts when considering the use of the Supplier on a new bid to our Client. The following factors will be considered in selecting the Supplier for subsequent Subcontracts/Subawards/Contracts: (1) quality of the end product; (2) timeliness of performance; (3) responsiveness to RTI; and (4) reliability of cost estimates.
- I. RTI Requests for Information. Upon RTI's reasonable request, Supplier shall provide information which is necessary and relevant to an individual Subcontract/Subaward/Contract's performance, as requested or required by RTI's Client.

ARTICLE 5. Designation of Contractual Representatives

- A. «Team_Leader» is hereby designated as the RTI Master Service Agreement Administrator and is the only one with the authority to direct changes under this Agreement. All notices shall be in writing and addressed as follows:

For RTI

«Team_Leader»
 Global Supply Chain
 RTI International
 P.O. Box 12194
 Research Triangle Park, NC 27709-2194
 Phone: «Team_Leader_Phone»
 Email: «Team_Leader_Email»

For Supplier

«Notice_FirstName» «Notice_LastName»
 «Company_Name»
 «Division»
 «Add1»
 «Add2»
 «City», «State» «Zip» «Country»
 Phone: «Notice_Phone»
 Email: «Notice_Email»

- B. RTI will assign a Principal Investigator/Project Manager and an RTI Subcontract/Subaward/Contract Administrator on an individual Subcontract/Subaward/Contract basis, and each such assignment will be set forth in the applicable Subcontract/Subaward/Contract. All reports and deliverables will be addressed to the RTI Principal Investigator/Project Manager identified in each Subcontract/Subaward/Contract.

ARTICLE 6. Key Personnel

- A. Supplier personnel considered essential to the work being performed under an individual Subcontract/Subaward/Contract will be identified in such a Subcontract/Subaward/Contract. By mutual agreement, the list of key personnel designated in an individual Subcontract/Subaward/Contract may be amended from time to time during the course of a Subcontract/Subaward/Contract's performance, to either add or delete key personnel as appropriate.
- B. During the first ninety (90) calendar days of an individual Subcontract/Subaward/Contract's performance, Supplier shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. Supplier shall notify the RTI Subcontract/Subaward/Contract Administrator within ten (10) calendar days after the occurrence of any of these events and provide the information required by

Paragraph C below. After the initial ninety (90) calendar day period, Supplier shall submit the information required by Paragraph C to the RTI Subcontract/Subaward/Contract Administrator at least ten (10) calendar days prior to making any permanent substitutions.

- C. Prior to diverting the above-named personnel to other programs, Supplier shall submit a justification (including the reason for the requested substitution and resumes of the proposed replacement key personnel) in sufficient detail to permit evaluation of the impact of the requested substitution on the program. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The RTI Subcontract/Subaward/Contract Administrator will notify Supplier of RTI's decision about the substitutions within ten (10) calendar days after receipt of all required information.

ARTICLE 7. Institutional Review Board (IRB) (Applicable if Subcontract/Subaward/Contract involves the use of Human Subjects)

Institutional Review Board approval must be obtained before any contact with human subjects. All research involving human subjects, or data from or about human subjects, must be conducted in accordance with applicable federal regulations (45 CFR

46 and 21 CFR 50 and 56) and the protocol approved by the IRB. Research activities include contacting Human Subjects, conducting the survey and the collecting and storing of any Human Subject data resulting from this survey. Upon notice of IRB approval, RTI will provide notice to the Supplier to commence work. Once this notice is provided to Supplier, the Supplier may commence with the research activities.

ARTICLE 8. Privity of Contract

No privity between Supplier and RTI's Client, including the Federal Government, is established by this Agreement or an individual Subcontract/Subaward/Contract. All communications regarding this Agreement or an individual Subcontract/Subaward/Contract must be directed to RTI and not to RTI's Client.

ARTICLE 9. Independent Contractor

The relationship of Supplier to RTI is that of an independent contractor, and nothing in this Agreement shall be construed as creating any other relationship. Supplier shall comply with all laws and assume all risks incident to its status as an independent contractor. This includes, but is not limited to, responsibility for all applicable federal and state income taxes, associated payroll and business taxes, licenses and fees, and such insurance as is necessary for Supplier's protection in connection with work performed under this Agreement. Neither Supplier nor anyone employed by it shall be, represent, act, and purport to act, or be deemed to be an agent, representative, employee, or servant of RTI.

ARTICLE 10. Statement of Work/Budget

Supplier shall furnish the necessary personnel, materials, services, equipment and facilities, and all other items necessary to accomplish all tasks specified in each individual Subcontract/Subaward/Contract issued pursuant to this Agreement.

ARTICLE 11. Limitation of Funds/Costs (Applicable to Incrementally Funded Subcontracts/Subawards/Contracts)

- A. The parties agree that performance of an individual Subcontract/Subaward/Contract will not cost RTI or RTI's Client more than the cost specified in an individual Subcontract/Subaward/Contract. Supplier agrees to use its best efforts to perform the work set forth in an individual Subcontract/Subaward/Contract within the cost ceiling and the funding amount allocated to the individual Subcontract/Subaward/Contract. RTI may fund an individual Subcontract/Subaward/Contract on an incremental basis. In the event an individual Subcontract/Subaward/Contract is not fully funded at the time of award, RTI, at its sole discretion, will incorporate additional funding to support the work requirements as funding is made available to RTI by RTI's Client. This additional funding will be incorporated into the Subcontract/Subaward/Contract by written modification. Funding allocations shall not exceed the cost ceiling established in the Subcontract/Subaward/Contract. No costs will be incurred under an individual Subcontract/Subaward/Contract except those costs specifically proposed by the Supplier to RTI. RTI is not obligated to reimburse the Supplier for costs incurred in excess of the total funding amount allotted by RTI to an individual Subcontract/Subaward/Contract, and the Supplier is not obligated to continue performance under an individual Subcontract/Subaward/Contract or otherwise incur costs in excess of the amount of funding allotted to an

individual Subcontract/Subaward/Contract. For incrementally funded Subcontracts funded via Federal Contracts, the Limitation of Funds Clause (FAR 52.232-22) shall also apply, and when such an individual Subcontract becomes fully funded, the Limitation of Cost Clause (FAR 52.232-20) shall then become applicable.

- B. Supplier shall notify the RTI Subcontract/Subaward/Contract Administrator and Project Manager in writing when 75% of an individual Subcontract's authorized funding has been expended under the Subcontract. The notice shall state the estimated amount of hours and funding required, if any, to continue performance under the Subcontract, along with an explanation of why the additional time and/or effort are needed. The Supplier shall not perform beyond the authorized funded amount without the advance written approval of the RTI Subcontract/Subaward/Contract Administrator.

ARTICLE 12. Consultants and Lower-Tier Subcontractors/Subrecipient

- A. PRIOR WRITTEN approval of the RTI Subcontract/Subaward/Contract Administrator is required for obtaining services of consultants and lower-tier subcontractors/subrecipients. Costs for consultants and lower-tier Subcontracts/Subawards/Contracts who have not received PRIOR WRITTEN approval in accordance with this Article will not be reimbursed. Inclusion in the Supplier's budget or proposal does not constitute request or approval of consultants or lower-tier subcontractors/subrecipients.
- B. When requesting the use of consultants or lower-tier subcontractors/subrecipients, the Supplier shall furnish information concerning the need for such services, the reasonableness of the fees or costs, a copy of the proposed consulting agreement/Subcontract/Subaward/Contract, and any additional information required to make a determination of acceptability, including, as applicable to Federal contract funded Subcontracts, FAR 52.244-2. Cost-plus-a-percentage-of-cost subcontracts, subawards or purchase orders are prohibited.

ARTICLE 13. Assignment, Delegation and Subcontracting

- A. Supplier shall not assign or novate any of its rights or interests in this Agreement or an individual Subcontract/Subaward/Contract without RTI's prior written consent. Supplier shall not delegate any of its duties or obligations under this Agreement or an individual Subcontract/Subaward/Contract. Supplier may not assign its right to monies due or to become due. No assignment, delegation or subcontracting by Supplier, with or without RTI's consent, shall relieve Supplier of any of its obligations under this Master Service Agreement or prejudice any of RTI's rights against Supplier whether arising before or after the date of any assignment. This Article does not limit Supplier's ability to purchase standard commercial supplies or raw materials.
- B. RTI shall be entitled to assign an individual Subcontract/Subaward/Contract to any of its subsidiaries or other affiliates (including by operation of law, judicial process or otherwise) or any successor to RTI's business or operations without prior notice to or consent from Supplier. RTI shall further be entitled to assign an individual Subcontract/Subaward/Contract to its Prime Sponsor of the agreement under which an individual Subcontract/Subaward/Contract is issued without prior notice to or consent from Supplier. Any other assignment by RTI shall require Supplier consent.

ARTICLE 14. Technical Direction

- A. The RTI Principal Investigator/Project Manager identified in an individual Subcontract/Subaward/Contract does not have the authority to direct the Supplier to make changes in scope, period(s) of performance, place(s) of performance, cost, funding, or any other express Provisions of this agreement or an individual Subcontract/Subaward/Contract. All matters affecting the terms of this Agreement or an individual Subcontract/Subaward/Contract, and the administration thereof, shall be referred to the RTI Subcontract/Subaward/Contract Administrator. The RTI Subcontract/Subaward/Contract Administrator is the only person with the authority to direct changes under an individual Subcontract/Subaward/Contract. Any changes to the provisions of this Agreement or an individual Subcontract/Subaward/Contract must be made by written modification in accordance with the Changes and Modifications Provision of this Agreement.
- B. When, in the opinion of Supplier, technical direction calls for effort outside the scope of the Statement of Work, Supplier shall so notify the RTI Subcontract/Subaward/Contract Administrator and RTI Principal Investigator/Project Manager of the technical direction in writing in accordance with the Changes and Modifications Article of this Agreement.

ARTICLE 15. Inspection and Acceptance

Acceptance of the work set forth in an individual Subcontract/Subaward/Contract will be made by RTI Principal Investigator/Project Manager identified in such a Subcontract/Subaward/Contract or his/her authorized designee. RTI and any Client including without limitation the federal government of the United States have the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If RTI or a Client performs any inspection or test on the premises of the Supplier or a lower-tier subcontractor/subrecipient, the Supplier shall furnish, and shall require lower-tier subcontractors/subrecipients to furnish, without additional charge, all reasonable facilities, and assistance for the safe and convenient performance of these duties. Upon request by RTI or a Client, Supplier shall provide RTI or the Client the records of inspection/test for any products and/or services furnished hereunder at any time during performance and any applicable warranty period.

ARTICLE 16. Master Service Agreement Changes and Modifications

- A. No change in the terms or conditions of this Agreement ("Changes") shall be made without a written modification of this Agreement, and such a modification shall be signed by both the RTI Master Service Agreement Administrator and Supplier's Contractual Designee. All changes shall be deemed to be effective from the date of the modification's execution; however, such Changes shall be effective and applicable to all Subcontract/Subaward/Contracts currently under performance.
- B. Any replacement of terms or conditions made pursuant to the provisions set forth in Article 4(G): Subcontract/Subaward/Contract Procedures shall not be considered a modification to this Agreement.
- C. Except as set forth in this Article, no employee, contractor, agent, or representative of either party is authorized to alter or amend the terms and conditions of this Agreement.

ARTICLE 17. Subcontract/Subaward/Contract Changes and Modifications

- A. The RTI Subcontract/Subaward/Contract Administrator may, without notice to sureties and in writing, direct changes within the general scope of individual Subcontract/Subaward/Contract in any of the following: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of RTI-furnished property; and, if individual Subcontract/Subaward/Contract includes services; (vi) description of services to be performed; (vii) time of performance (i.e., hours of the day, days of the week, etc.); and (viii) place of performance. Supplier shall comply immediately with such direction.
- B. If any change under this Article causes an increase or decrease in the Supplier's cost of, or the time required for, the performance of any part of an individual Subcontract/Subaward/Contract, the parties shall negotiate an equitable adjustment in the price or schedule, or both, and the RTI Subcontract/Subaward/Contract Administrator shall modify the individual Subcontract/Subaward/Contract in writing accordingly.
- C. Supplier must assert its right to an adjustment under this Article to the RTI Subcontract/Subaward/Contract Administrator in writing within 25 calendar days from the date of Supplier's receipt of the written change order from the RTI Subcontract/Subaward/Contract Administrator. In support of the claim for adjustment, Supplier shall provide a written statement describing the general nature of the requested adjustment, as well as a fully supported proposal with the total dollar amount of the requested adjustment. RTI may, at its sole discretion, consider any claim regardless of when asserted. RTI, or mutually agreeable third-party, may examine Supplier's pertinent books and records to verify the amount of Supplier's claim. Failure of the parties to agree upon any adjustment shall not excuse Supplier from performing previously agreed upon work.
- D. Notwithstanding the foregoing provisions of this article, an individual Subcontract/Subaward/Contract's ceiling or funded amount shall not be increased or deemed to be increased except by specific written modification of the Subcontract/Subaward/Contract indicating the new Subcontract/Subaward/Contract ceiling and authorized funded amount. Until such modification is made, Supplier shall not continue performance or incur costs beyond the period of performance or the authorized funded amount as set forth in the Subcontract/Subaward/Contract.

ARTICLE 18. Deliverables and Technical Reports

- A. Deliverable requirements will be stipulated in individual Subcontract/Subaward/Contracts. All required deliverables shall be addressed to the RTI Project Manager designated in such a Subcontract/Subaward/Contract.
- B. Notwithstanding any other payment provision of this Agreement, failure of Supplier to submit required reports when due, or failure to perform or deliver required work, supplies, or services to the reasonable satisfaction of RTI's Project Manager, will result in the withholding of payment under this Agreement unless such failure arises out of causes beyond the control and without the fault or negligence of Supplier.

ARTICLE 19. Submission and Payment of Invoices

- A. T&M, Labor Hour and Cost Reimbursement Subcontracts/Subawards/Contracts: Supplier shall submit invoices monthly for reasonable, allowable, and allocable costs incurred in the performance of work under a Subcontract/Subaward/Contract.
- B. Fixed Price Subcontracts/Subawards/Contracts: Supplier shall submit invoices in accordance with each individual Subcontract/Subaward/Contract's Milestone Payment Schedule contained therein.
- C. RTI shall make any payments due under this Agreement within thirty (30) calendar days after its receipt of a proper invoice from Supplier provided Supplier complied with requirements of Subcontract/Subaward and such invoice from Supplier complies with all requirements, which may be amended from time to time after this Agreement's execution, delineated at the following link: http://www.rti.org/page.cfm/Supplier_Invoice/Payment_Instructions
- D. Allowable Costs for Subcontracts funded via Federal Contracts: Except as provided in this Article, payment for Subcontracts issued under Federal Contracts will be made in accordance with the following clauses of the Federal Acquisition Regulation (FAR), which are incorporated by reference. In each of the following clauses, "Contractor" means Supplier, "Contracting Officer" means the RTI Master Service Agreement Administrator or the RTI Subcontract/Subaward/Contract Administrator, and "Government" means RTI and "Disputes Clause" means the "Disputes Clause" of this Agreement.
 - 1) FAR 52.216-7 Allowable Cost and Payment
 - 2) FAR 52.216-8 Fixed Fee (Applicable to Cost Plus Fixed Fee Subcontracts)
 - 3) FAR 52.216-10 Incentive Fee (Applicable to Cost Plus Incentive Fee Subcontracts).
- E. Allowable Costs for Subawards funded via Federal Cooperative Agreements/Grants: RTI determines the allowability of costs in accordance with the cost principles applicable to the type of Supplier incurring the costs as follows:
 - (1) For-profit organizations. Allowability of costs incurred by for-profit organizations and those non-profit organizations listed in Appendix VIII to 2 CFR 200 is determined in accordance with the for-profit costs principles in 48 CFR part 31 in the Federal Acquisition Regulation.
 - (2) Other types of organizations. Allowability of costs incurred by other types of organizations that may be Subrecipients under a prime award to a for-profit organization is determined in accordance with 2 CFR 200 Subpart E – Cost Principles.
 - (3) Fee and profit. The Subrecipient may not earn or keep any profit resulting from a Subaward, unless explicitly authorized by the terms and conditions of this Subaward. The Subrecipient may pay a fee or profit to a contractor providing goods or services under a contract.

ARTICLE 20. Indirect Rate and Audit Indemnity (Applicable to Cost Type Subcontract/Subaward/Contracts)

- A. Supplier shall provide the RTI Master Service Agreement Administrator with a copy of Supplier's Negotiated Indirect Cost Rate Agreement with the Government for the purpose of verifying compliance with Supplier's Negotiated Indirect Cost Rate Agreement with the Government. In the event Supplier will not provide indirect rate information to RTI due to proprietary restrictions, Supplier hereby agrees to certify to the following:

"The indirect costs billed under this Subcontract/Subaward/Contract do not exceed the indirect rates as determined in Supplier's Negotiated Indirect Cost Rate Agreement with the Government for the fiscal year in which the direct costs were incurred."

- B. If Supplier does not have a Negotiated Indirect Cost Rate Agreement with the Government, Supplier shall invoice for indirect costs that do not exceed the indirect rates established in the individual Subcontract/Subaward/Contract. Supplier shall maintain and provide upon request appropriate audit-level documentation to support claimed indirect rates.
- C. In the event that a Government audit of Supplier financial records results in a determination that Supplier has failed to adhere to the requirements of this Article, 2 CFR 200 Subpart E and 48 CFR 31, and such audit results in the reduction of the price of a Subcontract/Subaward/Contract, Supplier hereby agrees to indemnify, defend and hold harmless RTI from and against any and all demands, claims, liabilities, fines, penalties, losses, damages, costs and expenses of whatsoever nature, including attorneys' fees, which may be asserted by the Government auditor. The Supplier shall promptly, within 30 days from date of the Government audit findings, reimburse RTI for any overpayments, including any interest and penalties, previously made by RTI to Supplier as a result of Supplier's failure to comply with the cost allocability, allowability and reasonableness standards set forth in 48 CFR 31 or 2 CFR 200 Subpart E, as applicable.

ARTICLE 21. Subcontract/Subaward/Contract Final Payment and Closeout

Supplier's final invoice for an individual Subcontract/Subaward/Contract and release and assignment shall be submitted to RTI within 90 calendar days following completion of the period of performance of the Subcontract/Subaward/Contract. In the event that quick closeout is requested by RTI, Supplier shall comply with FAR Part 42.708 to complete the Subcontract/Subaward/Contract closeout. Payment of the final invoice will be withheld pending:

- Completion, submission, and acceptance by RTI of all work performed under the Subcontract/Subaward/Contract's Statement of Work
- Completion of Subcontract/Subaward/Contract Release and Assignment Form (see Appendix C: Sample Subcontract/Subaward/Contract Release and Assignment), including patent/invention report, and property report; and
- Clear, visible, and proper marking of "final invoice" on the actual final invoice

ARTICLE 22. Travel

To the extent travel is not restricted by this Agreement or an individual Subcontract/Subaward/Contract, costs incurred for lodging, meals and incidental expenses shall be considered to be reasonable, allowable, and allocable under an individual Subcontract/Subaward/Contract only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect on the day of travel as set forth in the current version of the Federal Travel Regulations (FTR).

ARTICLE 23. Taxes

All taxes applicable to the proceeds received by Supplier shall be the liability of Supplier, and RTI shall not withhold nor pay any amounts for federal, state or municipal income tax, social security, unemployment or workman's compensation unless required by law. RTI shall withhold and remit any amount, regardless of its description as a tax or otherwise, in countries where local laws require that such amounts be withheld and timely remitted by RTI. In accordance with law, RTI shall annually file with the Internal Revenue Service, or any other tax agency, whether domestic or not, any applicable tax forms reflecting the gross annual payments made by RTI to Supplier. Gross annual payments shall be the total compensation for labor and reimbursement of expenses; therefore, it is the Supplier's responsibility to retain copies of expenses incurred during the performance of services under this Agreement or Subcontract/Subaward/Contract for tax reporting purposes. It is the Supplier's responsibility to determine if a value added tax (VAT) is applicable to services provided to RTI, and to timely remit the VAT charged to RTI per the invoicing instructions included in Article 19. The invoice tendered to RTI for payment shall comply with the applicable local country's VAT regulations.

ARTICLE 24. Record Retention and Access

Supplier shall maintain books, records, documents, program and individual service records and other evidence of its compliance with laws and regulations as well as accounting and billing procedures with respect to this Agreement

and all issued Subcontracts/Subawards/Contracts. These records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of RTI, or by the United States government, as applicable. Supplier shall retain all such records concerning this Agreement for a period of three (3) years after the completion of the applicable Subcontract/Subaward/Contract. If any litigation, claim, or audit is started before the expiration date of this three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

ARTICLE 25. Confidential Information

A. During the term of this Agreement, and throughout the course of an individual Subcontract/Subaward/Contract's performance, Supplier and its employees may receive or have access to data and information that is confidential and proprietary to RTI or its Client. All such data and information ("Confidential Information") made available to, disclosed to, or otherwise made known to Supplier as a result of services under this Agreement or an individual Subcontract/Subaward/Contract shall be considered confidential and shall be considered the sole property of RTI and/or RTI's Client. Confidential Information may be used by Supplier or its employees only for purposes of performing the obligations set forth in an individual Subcontract/Subaward/Contract and such persons shall be advised of the obligations set forth in this Agreement and shall agree to be obligated in like manner. Supplier shall not reveal, publish or otherwise disclose Confidential Information to any third party without the prior written consent of the disclosing party and shall use at least the same degree of care in safeguarding the Confidential Information as the party uses in safeguarding its own confidential information but in no event less than a reasonable standard of care. Nothing herein shall be construed or interpreted to limit or in any way restrict the rights of any Client including the federal government of the United States regarding data such Client owns or has a right to use, including the right to authorize Supplier's use of such data in direct contracts between Supplier and such Client.

Confidential and/or proprietary information includes, but is not limited to, trade secrets, the structure, sequence, and organization of the Products, marketing plans, blueprints, techniques, processes, procedures and formulae, price lists, specifications, prints, and Product plans. Intellectual Property may include, without limitation, information relating to research and development, formulations, inventions, discoveries, improvements, methods, and processes, techniques, methodologies, know-how, algorithms, compositions, works, concepts, designs, ideas, prototypes, models, samples, writings, notes, patent applications, and trade secrets. Business practices may include, without limitation, information relating to business plans, financial information, products, and services, manufacturing processes and methods, costs, sources of supply, strategic marketing plans, customer lists, sales profits, pricing methods, personnel, and business relationships ("Confidential Information").

B. The foregoing obligations shall not apply to Confidential Information which:

- is or becomes generally available to the public other than as a result of a disclosure by Supplier;
- becomes available to Supplier on a non-confidential basis from a third party source which is not prohibited from disclosing such information by a legal, contractual or fiduciary agreement to a third party;
- Supplier develops independently without use of the disclosing party's Confidential Information, as demonstrated by written records and evidence;
- was in Supplier's possession or known to it prior to its receipt from the disclosing party; or
- is required by law to be disclosed, provided Supplier notifies the disclosing party promptly and gives the disclosing party an opportunity to seek an appropriate protective order.

D. These obligations of confidentiality and non-disclosure shall remain in effect for a period of five (5) years after the termination of the applicable individual Subcontract/Subaward/Contract and indefinitely for any Trade Secrets. Supplier shall return or destroy all copies of any Confidential Information it has received from RTI within thirty (30) business days after the effective date of the termination. At the request of RTI, an authorized officer of the Supplier will certify in writing that it has complied with its obligations hereunder.

E. The provisions of this Article apply in addition to the terms of any Non-Disclosure Agreement (NDA) between the parties related to this program. In the event of a conflict between this Article and the NDA, the terms of the NDA control, except that as to the duration of the obligations of confidentiality and non-disclosure, the longer duration applies.

ARTICLE 26. Conflicts of Interest

- A. Supplier warrants that, to the best of the Supplier's knowledge and belief, there are no relevant facts or circumstances which could give rise to a conflict of interest or that the Supplier has disclosed all such relevant information.
- B. Supplier agrees that if an actual or potential conflict of interest is discovered after the execution of this Agreement or the awarding of an individual Subcontract/Subaward/Contract, the Supplier will make a full disclosure in writing to the RTI Master Service Agreement Administrator. This disclosure shall include a description of activities that the Supplier has taken or proposes to take, after consultation with the RTI Master Service Agreement Administrator, to avoid, mitigate, or neutralize the actual or potential conflict.
- C. In the event RTI issues a Subcontract/Subaward/Contract funded by the Public Health Service, Supplier will separately certify that it either has its own Financial Conflicts of Interest ("FCOI") policy compliant with 42 CFR § 50 Subpart F or 45 CFR § 94, or that it will comply with RTI's FCOI policy. If following its own compliant policy, Supplier warrants that it has submitted any required FCOI management plans to RTI and will continue to submit FCOI management plans throughout the term of the individual Subcontract/Subaward/Contract as required. If following RTI's policy, individuals performing on behalf of Supplier that are responsible for the design, conduct, or reporting of research funded by the Public Health Service ("Investigators") shall complete RTI's FCOI training and submit Significant Financial Interest disclosure forms prior to beginning work and either annually thereafter or as new reportable Significant Financial Interests are obtained, whichever occurs first.
- D. The RTI Master Service Agreement Administrator may terminate this Agreement or an individual Subcontract/Subaward/Contract for convenience, in whole or in part, if it deems such termination necessary to avoid a conflict of interest. If the Supplier was aware of a potential conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the RTI Master Service Agreement Administrator, RTI may terminate the contract for default, and/or forward the relevant information to the Government Contracting Officer, who may debar the Supplier from Government contracting, and/or pursue such other remedies as may be permitted by law or this Agreement.
- E. Supplier further agrees to insert provisions which shall conform substantially to the language of this Section, including this paragraph (d), in any lower-tier subcontract, subaward or consultant agreement hereunder.

ARTICLE 27. Work for Hire

The work contributed by Supplier exclusively hereunder shall be considered a "work made for hire" as defined by the copyright laws of the United States. RTI shall be the sole and exclusive owner and copyright proprietor of all rights and title in and to the results and proceeds of Supplier's Subcontract/Subaward/Contract deliverables hereunder in whatever stage of completion. If for any reason the results and proceeds of Supplier's services hereunder are determined at any time not to be a "work made for hire", Supplier hereby irrevocably transfers and assigns to RTI all right, title and interest therein, including all copyrights, as well as all renewals and extensions thereto. Supplier agrees that RTI may make any changes or additions to the work prepared by Supplier hereunder, which RTI in its sole discretion may consider necessary, and may engage others to do any or all of the foregoing, with or without attribution to Supplier. Supplier represents that, except with respect to material furnished to Supplier by RTI, Supplier's services are original with Supplier, and does not knowingly violate the right of privacy or publicity, or any other rights of any person, firm, or Supplier. To the extent that the work is the subject of or a deliverable under a state or Federal contract, the terms of such contract shall supersede the terms of this paragraph.

ARTICLE 28. Patents and Inventions

Subject to Federal or state laws and regulations, to the extent applicable, all ideas, inventions (whether or not patentable), and improvements whatsoever, conceived, discovered, or developed by Supplier, Supplier's employees or Supplier's subcontractors or subrecipients, specifically and exclusively related to performance of this Agreement and Subcontracts/Subawards/Contracts issued hereunder, shall be and remain the sole and exclusive property of RTI. Supplier agrees to promptly disclose to RTI all such ideas, inventions, and improvements, and, on demand and at RTI's expense, assist and require and bind Supplier's employees to assist, in preparation, execution, and delivery of any disclosures, patent applications or other papers required by RTI to obtain and enforce patents in the United States and foreign countries, and to execute and deliver to RTI any reasonably stated assignment or other document which RTI deems necessary to perfect RTI's right, title and interest in and to said ideas, inventions, and improvements.

ARTICLE 29. Right to Publish/Release of Information

- A. Supplier agrees that it will not publish, have published, or otherwise disseminate any information of whatever nature resulting from the work being performed under this Agreement without providing RTI 90 days to review prior to publishing.
- B. Supplier and RTI mutually agree not to use the other party's name or make reference to the other party or any of its employees in publications, news releases, advertising, speeches, technical papers, photographs, sales promotions, or publicity purposes of any form related to this work or data developed hereunder, unless such materials have received prior written approval of the other party. Approvals shall not be unreasonably withheld. Unless specifically restricted in an individual Subcontract/Subaward/Contract, use of either party's name may be made in internal documents, annual reports, and data bases which are available to the public and which identify the existence of the research project by title, principal investigator, sponsor, period of funding, amount of award and abstract of the project.
- C. Supplier shall not use or duplicate any proprietary information including trade secrets belonging to or supplied by RTI, except as authorized by RTI in the performance of services or work under an individual Subcontract/Subaward/Contract.
- D. Any program, document, data or information supplied by Supplier to RTI's Client through RTI may be used, copied or disclosed by Client as necessary in the normal course of its business, subject to any copyright of Supplier in such materials and any notices or legends appearing thereon, provided (1) Supplier is entitled to place such notices or legends and (2) no other provisions of this Agreement or an individual Subcontract/Subaward/Contract (including, if applicable, any CFR or FAR Clauses set forth in, or incorporated into, this Agreement) prohibit or limit the effectiveness of such copyright or notice or legend.
- E. Nothing herein shall be construed or interpreted to limit or in any way restrict the rights of any Client including without limitation the federal government of the United States regarding data such Client owns or has a right to use, including the right to authorize Supplier's use of such data in direct contracts between Supplier and such Client.

ARTICLE 30. Indemnification

- A. Supplier shall defend, indemnify and hold RTI harmless from any loss, damage, liability, claims, demands, suits, or judgments ("Claims") including any reasonable attorney's fees, and costs, as a result of any damage or injury to RTI or its employees, directors, officers, or agents, or properties, or for any injury to third persons (including, but not limited to Claims by Supplier's employees, directors, officers or agents) or their property which is directly or indirectly caused by the negligence, willful misconduct, breach of this Agreement or an individual Subcontract/Subaward/Contract, or violation of statutory duties of Supplier, or its employees, officers, directors, or agents, arising out of or in connection with the performance of this Agreement or an individual Subcontract/Subaward/Contract unless such Claim is caused by, or resulting from, a material breach of this Agreement by RTI.
- B. RTI shall promptly notify Supplier of any claim which is covered by this provision. Supplier shall, in a diligent and timely manner, (i) brief RTI on all material information pertaining to a Claim and Supplier's efforts to defend against the Claim; and (ii) respond to reasonable inquiries by RTI regarding such Claim or defense. Any cooperation which an Indemnitee provides Supplier at Supplier's request with regard to defending against a Claim shall be at the sole expense of Supplier. RTI may, in its sole discretion, participate in any defense or settlement of a Claim and/or appoint adequate counsel, at Supplier's sole expense, to defend an Indemnitee against a Claim. Supplier shall not enter into any settlement, consent, or other like resolution of a Claim without RTI's written approval, which RTI shall not unreasonably withhold. The issuance of such approval shall not waive or otherwise limit the indemnity rights of an Indemnitee under this Article.

ARTICLE 31. Infringement Representation

Supplier represents (a) that in preparing or presenting any deliverables for a Subcontract/Subaward/Contract under this Agreement, Supplier will not knowingly infringe any intellectual property rights held by others; (b) that all deliverables developed by Supplier personnel for any Subcontracts/Subawards/Contracts under this Agreement will be original works, and that Supplier will not incorporate any material not developed by Supplier personnel in preparing or presenting such works without clearly indicating such third party materials; and (c) that Supplier will

notify RTI of any third party rights of which Supplier is aware that are necessary for RTI and RTI's Client(s) to use any such deliverables in accordance with the Subcontract/Subaward/Contract.

ARTICLE 32. Governing Law

This Master Service Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, excluding its principles of choice of laws, except as to any provisions hereof which are governed by the laws of the United States of America, as to which provisions such laws of the United States shall govern. If this Master Service Agreement involves the sale of good, then this Master Service Agreement excludes the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods.

ARTICLE 33. Compliance with Laws

Supplier, in the performance of this Master Service Agreement, shall comply with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances of the United States and all countries where Supplier will be performing the Subcontract/Subaward/Contract.

ARTICLE 34. Excusable Delays

- A. Neither Party hereto shall be in default because of any failure to perform under the terms of this Agreement or an individual Subcontract/Subaward/Contract if the failure arises from any incident or circumstance beyond the affected Party's control. For Federally funded Subcontracts/Subawards/Contracts, a United States (U.S.) government shutdown and any interruption in the U.S. government's operations shall constitute an incident or circumstance beyond the affected Party's control if the Party affected informs the other Party immediately in accordance with the requirements of Paragraph (B) below.
- B. If any such case occurs, the Party affected shall inform the other Party immediately indicating the presumable duration and extent of such contingency. Moreover, the Party affected shall promptly use all reasonable efforts to settle such contingencies so that the performance of its obligations under this Master Service Agreement can be resumed as soon as possible.

ARTICLE 35. Stop Work Order

- A. RTI may at any time, by written notice to Supplier, require Supplier to stop all or any part of the work called for by an individual Subcontract/Subaward/Contract. Upon receipt of the notice, Supplier shall immediately cease all work in accordance with the written notice and shall take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the written notice during the period of work stoppage.
- B. Once the Stop Work order is no longer necessary, RTI shall either terminate in accordance with the Subcontract/Subaward/Contract Termination/Cancellation Article of this Agreement or cancel the stop work order by written notice to Supplier. Supplier shall resume work upon cancellation or expiration of any stop work order. In the event Supplier is given notice to continue performing work on the Master Service Agreement, an equitable adjustment in accordance with the principles of the Subcontract/Subaward/Contract Changes and Modifications Article of this Master Service Agreement shall be made to the Subcontract/Subaward/Contract price, the delivery schedule, or both, if applicable, provided that the claim for equitable adjustment is made as soon as possible but no later than twenty-five (25) calendar days after date of notice to continue.

ARTICLE 36. Disputes

- A. Any dispute arising under this Agreement or an individual Subcontract/Subaward/Contract shall be settled by mutual agreement of the parties or pursuant to Paragraph B below.
- B. If the parties cannot resolve the dispute amongst themselves within a reasonable time, the parties may, by mutual agreement, settle such dispute by arbitration in accordance with the Rules of the American Arbitration Association in the City of Raleigh, North Carolina, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. Except as expressly set forth in this Agreement or an individual Subcontract/Subaward/Contract, Supplier shall not acquire any direct claim of action against any Client including without limitation the federal government of the United States without the express, prior written consent of the Client's contracting officer. Any dispute involving the federal government of the United States shall be heard in a federal court.

- C. Pending completion of the Subcontract/Subaward/Contract under dispute, or final resolution of a dispute which releases Supplier from performance hereunder, the Supplier shall, at all times, proceed diligently with the performance of the Master Service Agreement.

ARTICLE 37. Litigation and Labor Disputes

- A. Supplier shall provide written notice to RTI of any litigation that relates to the services directly or indirectly financed under this Agreement or Subcontract/Subaward/Contract, or that has the potential to impair the ability of the Supplier to fulfill the terms and conditions of this Agreement or an individual Subcontract/Subaward/Contract, including but not limited to financial, legal or any other situation which may prevent the Supplier from meeting its obligations on the Agreement or an individual Subcontract/Subaward/Contract.
- B. Whenever Supplier has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of an individual Subcontract/Subaward/Contract, Supplier shall immediately (within five (5) calendar days) give notice thereof, including all relevant information, to RTI.

ARTICLE 38. Master Service Agreement Termination/Cancellation

This Agreement may be terminated or cancelled by either party upon providing written notice to the non-terminating party of such an intention. The termination of this Agreement shall have no bearing on previously executed Subcontract/Subaward/Contracts, and all terms, conditions and obligations included herein shall remain in full force and effect for all such previously issued Subcontracts/Subawards/Contracts.

ARTICLE 39. Subcontract/Subaward/Contract Termination/Cancellation

Termination for Default

- A. If Supplier should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled staff or proper materials, or if Supplier should fail to make prompt payment to lower-tier subcontractors or subrecipients for material or labor, or otherwise is guilty of a violation on any provision of this Agreement or an individual Subcontract/Subaward/Contract, including delivery delays beyond fifteen (15) days after specified delivery date, or as otherwise specified in the Agreement or an individual Subcontract/Subaward/Contract, then RTI, without prejudice to any of the other rights or remedies expressly provided by law, may cancel this Agreement or an individual Subcontract/Subaward/Contract, or any part hereof, by written notice to Supplier and shall have the right thereafter to take possession of all materials, equipment and the like, the cost of which has been reimbursed by RTI to Supplier, in such cases of termination, RTI shall be relieved of all further obligations hereunder. In the event that RTI incurs any additional costs as a result of the default by Supplier, RTI shall have the right to hold Supplier accountable for any such additional costs or damages incurred by RTI.

Termination for Bankruptcy

- B. If either party shall be adjudged bankrupt, or become insolvent or file for voluntary bankruptcy or be subjected to involuntary bankruptcy proceedings, or enter receivership proceedings, or make an assignment for the benefit of creditors, then the other party, without prejudice to any of the other rights or remedies expressly provided by law, may cancel this Agreement or an individual Subcontract/Subaward/Contract, or any part hereof, by written notice to the bankrupt party and shall have the right there to retain possession of all materials, equipment and the like, the cost of which has not been reimbursed by the bankrupt party to the other party. In such cases of termination, the other party shall be relieved of all further obligations hereunder.

Termination for Convenience

- C. RTI reserves the right, at any time, in its own best interest or at the direction of any client or ultimate government customer, and without liability may, upon written notice to Supplier, terminate an individual Subcontract/Subaward/Contract, in whole or in part, at any time, whether or not Supplier is in default of any of its obligations hereunder. Upon such cancellation, Supplier agrees to waive any claim for damages, including loss of anticipated profits on account hereof. However, RTI agrees that Supplier shall be paid an amount which when added to all installments previously paid will equal the sum of all costs properly incurred up to the date of cancellation, and any reasonable cost incurred as a result of such cancellation as agreed to between RTI and Supplier. In no event shall such payments be greater than the original Subcontract/Subaward/Contract price or authorized funding, whichever is less. All earned profit shall bear the same relationship to such incurred costs as the profit increment of the purchase price bears to the cost increment of such purchase price.

- D. Supplier shall provide RTI and Client any supporting information necessary to document the reasonableness of Supplier's termination for convenience claim. RTI and Client reserve the right to verify the amounts of any cost and profit increments claimed by Supplier, through an audit of Supplier's records.

ARTICLE 40. Insurance

- A. Upon execution of this Agreement, Supplier certifies that it maintains and also that it shall require any lower-tier subcontractor or subrecipient to maintain throughout this Agreement the following insurance at, or in excess of, the limits detailed below.
- Worker's compensation and employer's liability insurance as required by the state or province where the work is performed.
 - Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.
 - Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any negligent act or omission of the Supplier or of any of its employees, agents, or lower-tier subcontractors or subrecipients, with \$1,000,000 combined single limits.
- B. The required levels of insurance coverage for work performed outside of the United States by non-U.S. vendors shall be based on the customary insurance practices in the country of the vendor and the country where the work is being performed, as directed by the RTI Subcontract/Subaward/Contract Administrator.
- C. Supplier's insurance policy shall name as an additional insured:
- "RTI International and its subsidiaries, affiliates, officers, directors, and employees"*
- D. Supplier shall provide to RTI, upon Agreement execution and upon each renewal or replacement thereof a certificate of insurance depicting the insurance requirements set forth in this Article. Supplier shall send the insurance certificate or renewal certificate(s) via mail or electronic mail (preferred). If the mail is used, please send certificates to the following address:

RTI International
Global Supply Chain
3040 Cornwallis Road
Research Triangle Park, NC 27709
Attention: «Team_Leader»
Email: «Team_Leader_Email»

ARTICLE 41. Standards of Ethics and Business Conduct

- A. RTI has established very high ethical standards for its employees, subcontractors, subrecipients, contractors and vendors. RTI considers adherence to the RTI Code of Conduct as well as strict observance of all U.S. and non U.S. laws and regulations to be both a legal requirement and an ethical obligation for its employees. All RTI Subcontractors, Subrecipients and Contractors are required to maintain a Code of Business Ethics and Conduct. In the event a Subcontract will be Federally funded, Subcontractor's Code of Business Ethics and Conduct must be in compliance with FAR 52.203-13.
- B. If Supplier has a good faith reason to believe that any violation of its Code of Business Ethics and Conduct has been committed by an employee(s) of either RTI or Supplier or anyone affiliated with Supplier, Supplier shall report such violation to RTI by calling the RTI's Ethics Helpline toll-free at 1-877-212-7220 or sending an e-mail to Ethics@rti.org.

ARTICLE 42. Executive Order on Terrorism Financing

Supplier is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Supplier to ensure compliance with these Executive Orders and laws. This provision must be included in all lower-tier Subcontracts/Subawards/Contracts issued under this Agreement.

ARTICLE 43. International Trade Compliance (Exports and Imports)

- A. Definition. "ITC Laws" mean the import, customs, export control, sanctions and U.S. anti-boycott laws, regulations, and orders applicable at the time of the import, export, re-export, transfer, disclosure, or provision of technical data, goods or Services including, without limitation, the (i) Export Administration Regulations ("EAR") administered by the Bureau of Industry and Security, U.S. Department of Commerce, 15 Code of Federal Regulations (C.F.R.) Parts 730-774; (ii) International Traffic in Arms Regulations (the "ITAR") administered by the Directorate of Defense Trade Controls, U.S. Department of State, 22 C.F.R. Parts 120-130; (iii) Foreign Assets Control Regulations and associated Executive Orders administered by the Office of Foreign Assets Control, U.S. Department of the Treasury, 31 C.F.R. Parts 500-598; (iv) Internal Revenue Code, 26 U.S.C. § 999, enforced by the U.S. Department of Treasury; (v) International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C., § 1701 et. Seq.; (vi) Customs regulations administered by U.S. Customs and Border Protection, 19 United States Code (U.S.C.) and Title 19 C.F.R.; and (vii) applicable import, customs and export laws and regulations of other countries, except to the extent they are inconsistent with the U.S. laws.
- B. The Supplier shall comply with all applicable laws and regulations regarding Export-controlled items, including, but not limited to, the ITC Laws. If this Agreement requires either Party to obtain government-approved export authorization to facilitate activities and obligations set forth under this Agreement, the Parties shall mutually exercise reasonable efforts to support the preparation and management of the authorization in full compliance with applicable government regulations. The Parties shall without delay respond to requests for supporting documentation, including clarifying questionnaires or any other requested information necessary to secure government authorization. Each Party, as applicable, shall be individually responsible for obtaining required documentation or other information from any third party required by such Party to perform its obligations under this Agreement. Failure to obtain any required documentation or information from a third party shall result in the third party's exclusion from the government authorization. The Parties shall exchange copies of all government export authorizations related to the Technical Data, or Services, and all provisions or conditions or information relating to the authorization, including but not limited to, any restriction on sublicensing, retransfer, resale or re-export, any requirement for non-disclosure agreements, and any limitation on individuals having access to Technical Data, or Services. Each Party, as applicable, shall be individually responsible for compliance with all government export authorizations, including without limitation ensuring that all export-related paperwork and documentation (e.g., Destination Control Statements, Electronic Export Information filed via Automated Export System) are properly completed and timely filed.
- C. In the event an individual Subcontract/Subaward/Contract issued pursuant to this Agreement is likely to involve export-controlled items, additional requirements and information may be included in such a Subcontract/Subaward/Contract, including affirmatively stating whether the export-controlled items are to be regulated by the U.S. Department of State or the U.S. Department of Commerce.
- D. Supplier shall notify RTI if any deliverable under this Agreement or an individual Subcontract/Subaward/Contract is controlled for export under a classification other than EAR99.
- E. Supplier shall immediately notify the RTI Subcontract/Subaward/Contract Administrator (i) if Supplier or a lower-tier subcontractor or subrecipient is, or becomes listed in any Denied or Restricted Parties List or if Supplier's or any lower-tier subcontractor's or subrecipient's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency, or (ii) of any pending administrative enforcement action concerning Supplier or a lower-tier subcontractor or subrecipient that may result in inclusion on any such list.
- F. If Supplier is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Supplier represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.
- G. Where Supplier is a signatory under a RTI export license or export agreement, Supplier shall provide prompt notification to the RTI Subcontract/Subaward/Contract Administrator in the event of changed circumstances including but not limited to, ineligibility, a violation or potential violation of the ITAR, and the initiation or existence of a U.S. Government investigation, that could affect Supplier's performance under this Agreement or a Subcontract/Subaward/Contract.

- H. Supplier shall be responsible for all losses, costs, claims, causes of action, damages, liabilities, and expense, including attorney's fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Supplier, its officers, employees, agents, or subcontractors/subrecipients at any tier, in the performance of any of its obligations under this Article.
- I. **If Supplier is to make shipment where RTI will be the importer or exporter of record, before departure of the cargo, Supplier must furnish RTI's Logistics Management Office [logistics@rti.org, tel. 919-541-6000] copies of all export documentation including certificates, inspections and permits to allow for final checking and approval of the documents, as well as for RTI records retention in the event of audit.**
- J. The Supplier shall include the substance of this clause in all lower-tier subcontracts and subawards.

ARTICLE 44. Foreign Corrupt Practices Act

Supplier represents and warrants that it shall comply fully with the anti-bribery provisions of the U.S. Foreign Corrupt Practices Act, as amended ("FCPA"), as well as the a) UN Conventional against Corruption (UNICAC), b) OECD Convention on the Bribery of Foreign Public Officials (OECD Convention); and c) any other applicable local anti-corruption laws, rules, and regulations if any part of this Master Service Agreement, or any Subcontract or Subaward issued hereunder, will be performed outside of the United States of America. Specifically, Supplier understands and agrees that it shall be unlawful for the Supplier and/or any officer, director, employee or agent of the Supplier to make any kind of offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to:

- (a) any foreign official (or foreign political party) for purposes of either influencing any act or decision of such foreign official in his official capacity, or inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or securing any improper advantage, or inducing such foreign official to use his influence with a foreign government, or instrumentality thereof, to affect or influence any act or decision of such government or instrumentality in order to assist such person in obtaining or retaining business for or with, or directing business to any person; or
- (b) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official (or foreign political party), or to any candidate for foreign political office, for any of the prohibited purposes described above.

For purposes of this Agreement "foreign official" means any appointed, elected, or honorary official or employee of a) a foreign government (or if any Subcontract or Subaward issued hereunder will be performed outside the United States than of the Host Country) or political party, or b) of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization (e.g., the UN, DFID, or WHO, or the World Bank).

For purposes of this Article, the "government" includes any agency, department, embassy, or other governmental entity, and any company or other entity owned or controlled by the government.

ARTICLE 45. Validity and Waiver

The invalidity in whole or in part of any provision of this Agreement or an individual Subcontract/Subaward/Contract shall not affect the validity of other provisions. A waiver of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of this Agreement. The failure of RTI to enforce at any time or from time to time any provision of this Agreement shall not be construed as a waiver thereof.

ARTICLE 46. Combating Trafficking in Persons

RTI, as well as the United States Government, has adopted a zero tolerance policy prohibiting trafficking in persons, including any trafficking-related activities. Additional information regarding trafficking in persons may be found at the

website for the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>.

Additionally, in the event a Subcontract is funded in whole or in part via Federal contract funds, the provisions set forth in FAR 52.222-50 (Combating Trafficking in Persons) shall also be applicable to the Subcontract, as well as FAR 52.222-56 (Certification Regarding Trafficking in Persons Compliance Plan), if and as applicable.

ARTICLE 47. Electronic Contracting

The parties agree that if this Agreement or any subsequently issued Subcontract/Subaward/Contract is transmitted electronically neither party shall contest the validity of this Agreement or any subsequently issued Subcontract/Subaward/Contract, or any Acknowledgement thereof, on the basis that this Agreement, any subsequently issued Subcontract/Subaward/Contract, or Acknowledgement contains an electronic signature.

ARTICLE 48. Survivability

A. If this Agreement or an individual Subcontract/Subaward/Contract expires, is completed, or is terminated, Supplier shall not be relieved of those obligations contained in the following Articles:

- Independent Contractor
- Governing Law
- Indemnification
- Infringement Representation
- Confidential Information
- Right to Publish/Release of Information
- Insurance
- International Trade Compliance
- Electronic Contracting
- Indirect Rate Indemnity (Only Applicable to Cost-Type Subcontracts/Subawards/Contracts)
- Any term contained in an individual Subcontract/Subaward/Contract, which by its nature, should remain in effect, and survive the expiration of the applicable Subcontract/Subaward/Contract.

B. Those U.S. Government Federal Acquisition Regulations, Agency Supplementary Regulations and Code of Federal Regulations provisions that by their nature should survive.

ARTICLE 49. Order of Precedence

Any inconsistency in this Agreement shall be resolved by giving precedence in the following order:

1. The relevant provisions of applicable law including without limitation the FAR and the DFAR;
2. The incorporated FAR and DFAR clauses;
3. Subcontracts/Subawards/Contracts issued under this Agreement, subject to Article 4(G): Subcontract/Subaward/Contract Procedures;
4. Terms and Conditions of this Agreement, including the appendices hereto; and
5. Supplier's proposal, if incorporated into a Subcontract/Subaward/Contract.

ARTICLE 50. Sustainability

Supplier shall operate in a manner that complies with United States (U.S.), national, and local environmental laws, regulations and standards including, but not limited to, laws related to energy conservation, greenhouse gas emissions, air emissions, waste management, recycling, water discharge, toxic substances, and hazardous waste disposal. Supplier agrees to flow down this requirement in any lower-tier subcontract or subaward that it may enter into under this Master Service Agreement.

ARTICLE 51. HIPAA Business Associate Training Addendum

In the event Supplier has been designated as a Business Associate, as defined by 45 CFR 160.103, via operation of a provision contained in an individual Subcontract/Subaward/Contract, Supplier certifies that it has completed, or will complete, a training course as described in 45 CFR 164.530(b) for all employees associated with the work issued under said Subcontract/Subaward/Contract and prior to such employees engaging in any work which involves Protected Health Information ("PHI"), as defined in 45 CFR 160.103.

ARTICLE 52. Price Warranty

The price/budget amount contained in an individual Subcontract/Subaward/Contract does not exceed that charged by Supplier to any other customers or clients, including the U.S. Government, for similar quantities of like items or services to be rendered.

ARTICLE 53. Entire Agreement

Both parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and further agree that it is the entire agreement between the parties hereto which supersedes all prior agreements, written or oral, relating to the subject matter hereof. No modification or waiver of any provision shall be binding unless in writing signed by an Authorized Representative of the Party against whom such modification or waiver is sought to be enforced.

(Signature