(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.). "Service employee," as used in this clause, means any person engaged in the performance of this subcontract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all persons regardless of any contractual relationship that may be alleged to exist between the Seller or subcontractor and such persons.

(b) Applicability. This subcontract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation. (1) Each service employee employed in the performance of this subcontract by the Seller or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination applicable to the subcontract.

(2)(i) If a wage determination is attached to this subcontract, the Seller shall classify any class of service employee which is not listed therein and which is to be employed under the subcontract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Seller prior to the performance of subcontract work by the unlisted class of employee. The Seller shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify DOE within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Company which shall promptly notify the Seller of the action taken. Each affected employee shall be furnished with a written copy of such determination or it shall be posted as a part of the wage determination.

(d) Obligation to Furnish Fringe Benefits. The Seller or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) Minimum Wage. In the absence of a minimum wage attachment for this subcontract, neither the Seller nor any subcontractor under this subcontract shall pay an employee performing work under this subcontract (regardless of whether the person is a service employee) less than the minimum wage specified by Section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Seller or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) Successor Subcontracts. If this subcontract succeeds a subcontract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this subcontract setting forth such collectively bargained wage rates and fringe benefits, neither the Seller nor any subcontractor under this subcontract shall pay or cause a service employee performing any of the subcontract work (regardless of whether or not such employee was employed under the predecessor subcontract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor subcontract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. Neither the Seller nor any subcontractor under this subcontract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary’s authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor subcontract was not entered into as a result of arm’s length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor’s collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor subcontract was not entered into as a result of arm’s length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to Employees. The Seller and any subcontractor under this subcontract shall notify each service employee commencing work on this subcontract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this subcontract, or shall post the wage determination attached to this subcontract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of Section 2(a)(4) of the Act and of this subcontract.

(h) Safe and Sanitary Working Conditions. The Seller or subcontractor shall not permit any part of the services called for by this subcontract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Seller or subcontractor which are unsanitary, hazardous, or otherwise conducive to injury or disease. The Seller or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records. (1) The Seller and each subcontractor performing work subject to the Act shall make and maintain for three years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:
(i) For each employee subject to the Act:
   (A) Name and address and social security number;
   (B) Correct work classification or classifications, rate or rates of
       monetary wages paid and fringe benefits provided, rate or rates of payments in lieu
       of fringe benefits, and total daily and weekly compensation;
   (C) Daily and weekly hours worked by each employee; and
   (D) Any deductions, rebates, or refunds from the total daily or
       weekly compensation of each employee.

(ii) For those classes of service employees not included in any
    wage determination attached to this subcontract, wage rates or fringe benefits
    determined by the interested parties or by the Administrator or authorized
    representative under the terms of paragraph (c) of this clause. A copy of the report
    required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor subcontractor’s employees which
    had been furnished to the Seller as prescribed by paragraph (n) of this clause.

(2) The Seller shall also make available a copy of this subcontract for
    inspection or transcription by authorized representatives of the Wage and Hour
    Division.

(3) Failure to make and maintain or to make available these records for
    inspection and transcription shall be a violation of the regulations and this subcontract,
    and in the case of failure to produce these records, the Company, upon direction of
    DOE or the Department of Labor and notification to the Seller, shall take action to
    cause suspension of any further payment or advance of funds until the violation
    ceases.

(4) The Seller shall permit authorized representatives of the Wage and
    Hour Division to conduct interviews with employees at the worksite during normal
    working hours.

(j) Pay Periods. The Seller shall unconditionally pay to each employee
    subject to the Act all wages due free and clear and without subsequent deduction
    (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or
    kickback on any account. These payments shall be made no later than one pay
    period following the end of the regular pay period in which the wages were earned or
    accrued. A pay period under this Act may not be of any duration longer than
    semimonthly.

(k) Withholding of Payments and Termination of Subcontract. The Company
    shall withhold or cause to be withheld from this or any other subcontract with the Seller
    such sums as DOE or an appropriate official of the Department of Labor requests or
    such sums as the Company decides may be necessary to pay underpaid employees
    employed by the Seller or subcontractor. In the event of failure to pay any employees
    subject to the Act all or part of the wages or fringe benefits due under the Act, the
    Company may, after authorization or by direction of DOE or the Department of Labor
    and written notification to the Seller, take action to cause suspension of any further
    payment or advance of funds until such violations have ceased. Additionally, any
    failure to comply with the requirements of this clause may be grounds for termination
    of the right to proceed with the subcontract work. In such event, the Company may
    enter into other subcontracts or arrangements for completion of the work, charging the
    Seller in default with any additional cost.

(l) Subcontracts. The Seller agrees to insert this clause in all subcontracts
    subject to the Act.

(m) Collective Bargaining Agreements Applicable to Service Employees. If
    wages to be paid or fringe benefits to be furnished any service employees employed
    by the Seller or any subcontractor under this subcontract are provided for in a
    collective bargaining agreement which is or will be effective during any period in which
    this subcontract is being performed, the Seller shall report such fact to the Company,
    together with full information as to the application and accrual of such wages and
    fringe benefits, including any prospective increases, to service employees engaged
    in work on the subcontract, and a copy of the collective bargaining agreement. Such
    report shall be made upon commencing performance of the subcontract, in case of
    collective bargaining agreements effective at such time, and in the case of such
    agreements or provisions or amendments thereof effective at a later time during the
    period of subcontract performance such agreements shall be reported promptly after
    negotiation thereof.

(n) Seniority List. Not less than ten days prior to completion of any
    subcontract being performed at a Federal facility where service employees may be
    retained in the performance of the succeeding subcontract and subject to a wage
    determination, which contains vacation or other benefit provisions based upon length
    of service with the Seller (predecessor) or successor (29 CFR 4.173), the Seller shall
    furnish the Company a certified list of the names, of all service employees on the
    Seller’s or subcontractor’s payroll during the last month of subcontract performance.
    Such list shall also contain anniversary dates of employment on the subcontract either
    with the current or predecessor subcontractors of each such service employee. The
    Company shall turn over such list to the successor at the commencement of the
    succeeding subcontract.

(o) Rulings and Interpretations. Rulings and interpretations of the Act are

(p) Seller’s Certification. (1) By entering into this subcontract, the Seller (and
    officials thereof) certifies that neither it (nor he or she) nor any person or firm who has
    a substantial interest in the Seller’s firm is a person or firm ineligible to be awarded
    Government contracts by virtue of the sanctions imposed under Section 5 of the Act.
    (2) No part of this subcontract shall be subcontracted to any person or
    firm ineligible for award of a Government contract under Section 5 of the Act.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding
    any of the provisions in paragraphs (b) through (o) of this clause, the
    following employees may be employed in accordance with the following variations,
    tolerances, and exemptions, which the Secretary of Labor, pursuant to Section 4(b)
    of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper
    in the public interest or to avoid serious impairment of the conduct of Government
    business.

   (1) Apprentices, student-learners, and workers whose earning capacity
    is impaired by age, physical or mental deficiency or injury may be employed at
    wages lower than the minimum wages otherwise required by Section 2(a)(1) or
    2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu
    thereof required under Section 2(a)(2) of the Act, in accordance with the conditions and
    procedures prescribed for the employment of apprentices, student-learners, handicapped
    persons, and handicapped clients of sheltered workshops under Section 14 of the Fair
    Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR
    Parts 520, 521, 524, and 525).

    (2) The Administrator will issue certificates under the Act for the employment of
    apprentices, student-learners, handicapped persons, or handicapped
    clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938,
    or subject to different minimum rates of pay under the two acts, authorizing
    appropriate rates of minimum wages (but without changing requirements concerning
    fringe benefits or supplementary cash payments in lieu thereof), applying procedures
    prescribed by the applicable regulations issued under the Fair Labor Standards Act
    of 1938 (29 CFR Parts 520, 521, 524, and 525).

    (3) The Administrator will also withdraw, annul, or cancel such
    certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the
    predetermined rate for the work they perform when they are employed and individually
    registered in a bona fide apprenticeship program registered with a State
    Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no
    such recognized agency exists in a State, under a program registered with the Bureau
    of Apprenticeship and Training, Employment and Training Administration, U.S.
    Department of Labor. Any employee who is not registered as an apprentice in an
    approved program shall be paid the wage rate and fringe benefits contained in the
    applicable wage determination for the journeyman classification of work actually
    performed. The wage rates paid apprentices shall not be less than the wage rate for
    their level of progress set forth in the registered program, expressed as the
    appropriate percentage of the journeyman’s rate contained in the applicable wage
    determination. The allowable ratio of apprentices to journeymen employed on the
    subcontract work in any craft classification shall not be greater than the ratio permitted
    to the Seller as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which the employer
    customarily and regularly receives more than $30 a month in tips may have the
    amount of these tips credited by the employer against the minimum wage required by
    Section 2(a)(1) or Section 2(b)(1) of the Act, in accordance with Section 3(m) of the
    Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of
    credit shall not exceed $1.34 per hour beginning January 1, 1981. To use this provision:

    (1) The employer must inform tipped employees about this tip credit
        allowance before the credit is utilized;

    (2) The employees must be allowed to retain all tips (individually or
        through a pooling arrangement) and regardless of whether the employer elects to
        take a credit for tips received;

    (3) The employer must be able to show by records that the employee
        receives at least the applicable Service Contract Act minimum wage through the
        combination of direct wages and tip credit; and

    (4) The use of such tip credit must have been permitted under any
        predecessor collective bargaining agreement applicable by virtue of Section 4(c)
        of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor
    has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning
    labor standards requirements. Such disputes shall be resolved in accordance with
    those procedures and not the Disputes clause, if any, of this subcontract. Disputes
    within the meaning of this clause include disputes between the Seller (or any of its
    subcontractors) and the Company, DOE, the U.S. Department of Labor, or the
    employees or their representatives.