ARGONNE TERMS AND CONDITIONS

(For Non-Commercial Awards Under $10,000)

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1. ACCEPTANCE (OCT 1999)
Acceptance of this Purchase Order (hereinafter called the ‘contract’) must be in accordance with and strictly limited to the Terms and Conditions contained herein. An attempted acknowledgement or acceptance which contains provisions conflicting or additional to the Terms and Conditions herein set forth and/or varies any term or condition shall have no force or effect. Performance by the contractor without an effective acknowledgement shall be deemed to be in performance in accordance with the Terms and Conditions of this contract.

2. ASSIGNMENT (OCT 1999)
Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the contractor except all expressly authorized in writing by the Laboratory, provided, that the contractor or his assignee’s rights to be paid amounts due as a result of performance of this contract may be assigned to a bank, trust company or other financial institution or any Federal or State lending institution. The Laboratory may assign this contract to a successor operator of the Laboratory.

3. PAYMENTS (FEB 2004)
(a) The Laboratory shall pay the contractor, upon the submission of proper invoices or vouchers, such as agricultural payments, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements
(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of award, the Contractor shall—
(i) Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award.
(ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new employees of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section);
(iii) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days following assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section);
(iv) If the Contractor elects not to use E-Verify to verify employment eligibility of all new employees, the Contractor shall use a system of employment eligibility verification consisting of all the elements specified in paragraphs (b)(i), (b)(ii), and (b)(iii) above.

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(a), such as agricultural products and petroleum products. Per 46 CFR 525.1(c), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unbound fashion, but does not include bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, does not be bulk cargo.

3.6. “Employee assigned to the contract” means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work in the United States, under a contract that is subject to the clause prescribed at 29 CFR 503. An employee is not considered to be directly performing work under a contract if the employee—
(1) Normally performs support work, such as indirect or overhead functions; and
(2) Does not perform any substantial duties applicable to the contract.

4. BANKRUPTCY (JUL 1995)
In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail, written notification of the bankruptcy to the Laboratory at the Laboratory’s Official Representative for administering the contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for all contracts in which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for all contracts in which the bankruptcy petition was filed.

5. COVENANT AGAINST CONTINGENT FEES (MAY 2014)
(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) “Bona fide agency,” as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(c) “Bona fide employee,” as used in this clause, means a person, employed by a contractor and subject to the contractor’s general supervision and control, to whom the contractor’s general supervision and control extends as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(d) “Improper influence,” as used in this clause, means any influence that induces or tends to induce the Government employee or officer to give consideration to or act regarding a Government contract on any basis other than the merits of the matter.

6. EMPLOYMENT ELIGIBILITY VERIFICATION (AUG 2013)
(a) Definitions. As used in this clause—
(1) “Commercially available off-the-shelf (COTS) item”—
(i) Means any item of supply that is—
(A) A commercial item (as defined in paragraph (2) of the definition at 2.101);
(B) Sold in substantial quantities in the commercial marketplace; and
(C) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and
(ii) An item sold in the United States.

(iii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(a), such as agricultural products and petroleum products. Per 46 CFR 525.1(c), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unbound fashion, but does not include bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, does not be bulk cargo.

(ii) “Employee assigned to the contract” means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work in the United States, under a contract that is subject to the clause prescribed at 29 CFR 503. An employee is not considered to be directly performing work under a contract if the employee—
(1) Normally performs support work, such as indirect or overhead functions; and
(2) Does not perform any substantial duties applicable to the contract.

(iii) “Contractor” means any contract, as defined in 29 U.S.C. 301(a), entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes any contract not limited to purchase orders, and changes and modifications to purchase orders.

(iv) “Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

(v) “United States” as defined in 29 U.S.C. 301(a)(1), means the States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.
7. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designer, in writing, “days prior to the delivery of, or prior to completion of any servicing required by this contract, of items containing either:

(1) Radioactive material requiring specific licensing under the regulations issued pursuant to 10 C.F.R. Part 49, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or

(2) Other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.02 microcuries.

Such notice shall identify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put the users of the notice on notice as to the hazards involved (OMB No. 9000-0070).

The Laboratory Procurement Representative shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health procedures. Said notice shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

(Continued)

8. PREFERENCE FOR U.S. FLAG AIR CARRIERS (JUN 2003)

(a) Definitions. As used in this clause -- International air transportation means transportation by air from one place in the United States and a place outside the United States or between two places both of which are outside the United States. "United States" means the 50 States, the District of Columbia, and outlying areas. "U.S. flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competition Practices Act of 1974 (49 U.S.C. Section 1305(a)) requires the Federal agencies and Government contractors and subcontractors to use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by such carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures on or otherwise establish the accounting of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If, after available, the contractor, in performing work under this contract, shall use U.S.-flag air carriers for international air transportation of personnel (and their personal effects) or property, the contract shall contain a provision requiring such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG CARRIERS

International transportation of personnel (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see Section 47.403 of the Federal Acquisition Regulation):

[State reasons].

(End of Statement).

(e) The contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase order under this contract that may involve international air transportation.

9. APPLICABLE LAW (OCT 1999)

To the extent that Federal law does not exist and State law could become applicable to this contract, the law of Illinois shall apply.

10. NOTICE TO THE LABORATORY OF LABOR DISPUTES (OCT 1999)

(a) If the contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the contractor shall immediately give notice, including all relevant information, to the Laboratory.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract in which a labor dispute may delay the timely performance of this contract; except that each subcontract shall state only in the event its timely performance is delayed or threatened by delay of any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the contractor, as the case may be, of all relevant information concerning the dispute.

11. REPORTS (OCT 1999)

The contractor shall furnish intermediate reports to the Laboratory from time to time when requested, in such form and number as may be required by the Laboratory, summarizing the activities of the Contractor in connection with this contract. All reports as may be made by the Contractor to the Laboratory. All reports delivered to the Laboratory under this contract shall contain a separate page which will identify the persons preparing the report and the persons approving the report.

12. CHANGES - FIXED-PRICE (OCT 1999)

(a) The authorized Laboratory Procurement Official may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be manufactured for the Laboratory by the contractor, the Laboratory, or anyone on its behalf.

(2) Method of shipment or packing.

(3) Description of labor, material, or services.

(b) If the contractor incurs an increase or the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the authorized Laboratory Procurement Official shall make an equitable adjustment in the contract price.

(c) The contractor must submit any "proposal for adjustment" (hereafter referred to as "proposal") unless that subcontract is within 30 days of the date of receipt of the written order. However, if the authorized Laboratory Procurement Official decides that the facts justify it, the authorized Laboratory Procurement Official may receive and act upon a proposal submitted before final payment of the contract.

(d) If the contractor's proposal includes the cost of property made obsolete or excess by the change, the authorized Laboratory Procurement Official shall have the right to prescribe the manner of the disposition of the property.

(e) Nothing in this clause shall excuse the contractor from proceeding with the contract as changed.

13. EXTRAS (OCT 1999)

As excepted otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefore have been authorized in writing by the authorized Laboratory Procurement Official.

14. WARRANTY OF SERVICES (MAY 2001)

(a) Definitions. As used in this clause, means the act of an authorized representative of the Laboratory in attesting that the authorized representative believes, as an agent of another, ownership of existing and identified supplies, or approved specific services, as partial or complete performance of the contract, as the case may be.

(b) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the conclusiveness thereof, the contractor warrants that all services performed under this clause shall be free from defects in workmanship and conform to the requirements of this contract.

(c) If the Laboratory does not require correction or reperformance, the Laboratory shall make an equitable adjustment in the contract price.

(d) If the Contractor is required to correct or reperform, it shall be at no cost to the Laboratory and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform to the Laboratory's satisfaction, the Laboratory may correct or replace with similar services and charge to the Contractor the cost occasioned to the Laboratory thereby, or make an equitable adjustment in the contract price.

15. WARRANTY OF SUPPLIES (JUN 2014)

The contractor warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

Energy Consuming Products
When the contract requires the specification or delivery of energy consuming products for use in Federal facility, the contractor will specify or deliver Energy Star approved products or products containing recycled content approved by the Federal Energy Management and Acquisition Policy Office (FEMP) Energy Efficiency Program. When the contract requires the delivery of personnel (and their personal effects) or property, to the degree practical or otherwise established, the Laboratory may require the contractor to disallow expenditures from funds, appropriated or otherwise established for international air transportation of personnel (and their personal effects) or property, to the degree practical or otherwise established.

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG CARRIERS

International transportation of personnel (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see Section 47.403 of the Federal Acquisition Regulation):

http://www.energystar.gov/products and FEMP at - RegisterTeled(Television) (JUN 2014) shall apply.

When the contract requires the delivery of televisions, the clause at FAR 52.223-14, Acquisition of EPEAT®-Registered Televisions (JUN 2014) shall apply, or it is an Alternative I. When the contract calls for the specification or delivery of personal computer products, the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (JUN 2014) shall apply.

The contractor shall also consider the best practices within the Department of Defense Acquisition Guide or the Department of Energy, Energy Efficiency and End Use Standards, and Energy Conservation Policy.

17. INSPECTION OF SUPPLIES (OCT 1999)

The contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Laboratory reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Laboratory may require replacement of nonconforming supplies or services at the contractor's expense and at no increase in contract price. The Laboratory at the contractor's expense and at no increase in contract price. The Laboratory at the contractor's expense, at its discretion, to retest, rework, or replace any supplies or services which have been tested by the Laboratory and the results are not acceptable.

18. INSPECTION OF SERVICES (AUG 1996)

(a) Definitions. "Services," as used in this clause, includes services performed, workmanship, materials, supplies or reperformance of nonconforming services at no increase in contract price. The contractor shall provide and maintain an inspection system acceptable to the Laboratory covering the services under this contract. Complete records of all inspection work performed...
by the Contractor shall be maintained and made available to the Laboratory during contract performance and for as long afterwards as the contract requires.

(c) The Laboratory has the right to inspect and test all services called for by the contract, to the extent practical and in accordance with the terms of the contract, and shall perform inspections and tests in a manner that will not unduly delay the work.

(d) The Laboratory performs inspections of the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Laboratory may require the Contractor to perform the services again or remedy any defects at the Contractor's expense, or in the event of any claim by the Contractor for a reduction of costs allowable under this contract or shall be otherwise credited to the Contractor.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Laboratory may (1) by contract or otherwise, perform the services required; (2) reduce the contract price to reflect the reduced value of the services performed.

(g) If any of the services do not conform with contract requirements, the Laboratory may require the Contractor to perform the services again or remedy any defects at the Contractor's expense, or in the event of any claim by the Contractor for a reduction of costs allowable under this contract or shall be otherwise credited to the Contractor.

The Laboratory may:

(i) Require the Contractor to take such action as is necessary to ensure that future performance conforms to contract requirements and (ii) authorize the Contractor to reduce the reduced value of the services performed.

(i) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Laboratory may (1) by contract or otherwise, perform the services required; (2) reduce the contract price to reflect the reduced value of the services performed.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION (MAY 2014)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 1/2 times the basic rate of pay for all hours worked in excess of 40.

(b) Violation; liability for unpaid wages; liquidated damages. The responsible Contractor and its subcontractors shall be liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the responsible Contractor and subcontractors shall be liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of 20 percent of the weekly wage due, as of the date of final settlement with the Government, if the violation continues after the responsible Contractor and its subcontractors have been notified of the violation.

(c) The Contractor and its subcontractors shall be liable for unpaid wages if they violate the terms in paragraph (a) of this clause. If the violation continues after the Contractor and its subcontractors have been notified of the violation, the Contracting Officer will assess liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of 20 percent of the weekly wage due, as of the date of final settlement with the Government, if the violation continues after the Contractor and its subcontractors have been notified of the violation.

(d) Withholding for unpaid wages and liquidated damages. The Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards statute found at 40 U.S.C. chapter 37.

(e) The Contractor and its subcontractors shall maintain records of hours worked by each individual, including total hours worked, deductions made, and actual wages paid. The records shall contain the name and address of each employee, social security number, hours worked, deductions made, and actual wages paid. The records shall not duplicate those required for construction work by Department of Labor regulations found at 29 CFR Part 516.

21. BUY AMERICAN ACT – SUPPLIES (MAY 2014)

(a) Definitions. As used in this clause—

(i) "Commercially available off-the-shelf (COTS) item" means—

(1) Any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(B) A separate and complete major construction, alteration, or repair operation in connection with the performance of this contract.

(C) Full integration with the Contractor's other administrative and financial systems;

(D) Property Management System.

(ii) "Government property" means—

(1) Means any item of supply (including construction material) that is—

(A) Willful misconduct or lack of good faith on the part of the Contractor or its representatives who have supervision or direction of—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(ii) Any item of supply (including construction material) that is—

(i) Means any item of supply (including construction material) that is—

(ii) The contractor's managerial personnel as used in this clause means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent officials who have supervision or direction of—

(1) All or substantially all of the Contractor's business; or

(2) All or substantially all of the Contractor's business if the occasion and circumstances indicate that the Contractor is under contract for default.

(f) The contractor shall include this clause in all cost reimbursable subcontracts.
23. FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause—

“After-imposed Federal tax” means any new or increased Federal excise tax or duty, or tax that is first imposed or excluded on the expiration or termination of this contract or any extension thereof, or reduced during the contract period, on the transactions or property covered by this contract after the contract date.

“Contractor” means the person holding the contract.

“Federal excise tax or duty” means Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price, and includes all taxes and duties, for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“Local taxes” includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided that the Contractor warns in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency title and deliver to the Laboratory, as directed by the Laboratory, any (1) completed supplies, (2) other supplies or services. However, the contractor shall continue the work not terminated.

(d) The contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(e) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local taxes. On written request from the Contractor, the Government to the contractor. Without prejudicing any other rights and remedies provided by law or under this contract.

24. TERMINATION FOR CONVENIENCE OF THE LABORATORY (OCT 1999)

The Laboratory, by written notice, may terminate this contract, in whole or in part, if it is in the Laboratory’s interest, if the contract is terminated for convenience of the Government, if the contractor shall not be entitled to compensation, including compensation to the contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulation in effect on the date of this contract.

25. DEFAULT (OCT 1999)

(a) The Laboratory may, subject to paragraphs (c) and (d) below, by written notice of default to the contractor, terminate this contract or any extension thereof, or reduced during the contract period, on the transactions or property covered by this contract after the contract date.

(b) If the Laboratory terminates this contract in whole or in part, it may acquire, under the terms of 46 U.S.C. 40102(4), such as agricultural.

(c) Except for defaults of subcontractors at any tier, the contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) the acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the contractor.

(d) If the performance failure is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the contractor and the subcontractor, and without the fault or negligence of the contractor or of either party, then the contractor shall be entitled to recover excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) the acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the contractor.

(e) If the performance failure is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the contractor and the subcontractor, and without the fault or negligence of the contractor or of either party, then the contractor shall be entitled to recover excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor.

(f) If, after termination, it is determined that the contractor was not in default or that the default was excusable, the contractor shall be entitled to recover any excess costs that the contractor may prove were reasonably incurred by the contractor in connection with the performance of this contract and shall not be in default or at any time, and shall be at any time.

26. PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS (DEVIATION) (AUG 2012)

This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

(a) Upon receipt of accelerated payments from the Government, the Laboratory is required to make accelerated payments to small business subcontractors. The maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor. The Laboratory shall pay the contractor the amount of any payment not in accordance with the Prompt Payment Act.

(b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.

(c) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

27. RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any goods or services, including transportation services, for which any sanction or embargo is applicable.

(b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.
28. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2009)

All information technology acquired under this Agreement shall include the appropriate information technology security policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology website at http://checklists.nist.gov.

29. SECURITY (OCT 2013) (DEVIATION)

Responsibility. The Contractor is to protect all classified and special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE requirements, be responsible for protecting all classified information and all special nuclear material (including documents, models, and atomic nuclei) in the possession of the Contractor in connection with the performance of work under this contract against sabotage, espionage, loss or theft.

(a) Definition of Classified Information. The term Classified Information means information that is classified by the DOE or its predecessors in interest under DOE regulations, including restrictions on transmission to other countries or other foreign defense organizations that apply to classified national security information.

(b) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information: (1) relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or other foreign defense organizations that apply to classified national security information.

(c) Definition of National Security Information. The term "National Security Information" means information that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or prior to such Executive Order, has been marked as classified under the Atomic Energy Act of 1954, as amended.

(d) Definition of Restricted Data. The term Restricted Data means that part of special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with the performance of work under this contract that is determined to be special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. §1762 [Section 145, as amended] or any other applicable laws, regulations, or Executive Orders, which is identified as National Security Information.

(e) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information: (1) relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or other foreign defense organizations that apply to classified national security information.

(f) Definition of Special Nuclear Material. The term "special nuclear material" means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material that has been determined, pursuant to Executive Order 12958, to be special nuclear material under the Atomic Energy Act of 1954; and (2) any material that has been determined, pursuant to Executive Order 12958, to be special nuclear material under the Atomic Energy Act of 1954, has been determined to be special nuclear material, but does not include source material or any material artificially enriched by any of the foregoing, but does not include source material.

(iii) In collecting and using this information to make a determination as to whether it can be accomplished, and a DOE indices check can be completed prior to approval. In such cases, a specific security plan is required by the Contractor to the Contracting Officer. Additionally, the Contractor must require such Subcontractors to have an existing DOE or DOE facility clearance or submit a completed SF 325, Certificate Pertaining to Foreign Interests, as required in DEAR 52.204-2, prior to assignment to access the DOE site. For purposes of this clause, Subcontractor means any Subcontractor at any tier and the term "Contracting Officer" means the DOE Contracting Officer. When this clause is included in a subcontract, the term "Contractor" shall mean Subcontractor and the term "contract" shall mean subcontract.
solely the contractor's obligation to obtain all appropriate export licenses, keep required records, and comply fully with all export control statutes and regulations. Unless authorized by appropriate government license or regulation, contractor agrees not to export directly or indirectly any technology, software, or materials provided by the Laboratory. Contractor shall be solely liable for any violation of export control statutes or regulations, and shall indemnify and hold the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.

32. EXPORT CONTROL INFORMATION FOR FOREIGN TRAVEL (NOV 2002)

The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne's employees undertake to further its research and technology development mission is exempted from U.S. control regulations, the Laboratory remains liable by all of the export control laws and regulations to ensure its compliance with export controls.

An export can occur through a variety of means, including oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting them are considered exports. You and the Laboratory can be held liable for improperly transmitting controlled technologies.

Prior to transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:

- Fundamental research and information resulting from fundamental research
- Published information and software (publicly available) education information
- Patent applications

If the information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export. To further ensure that you do not run the risk of exporting sensitive information or technology when traveling abroad, keep the following guidelines in mind that without having acquired an export license prior to travel, you may be violating U.S. export control laws.

Elsewhere in the U.S. and abroad, the Export Control Act of 1979 and its implementing regulations, the International Traffic in Arms Regulations, and any other regulations implementing treaty obligations or the policies of the United States.

The Laboratory may elect to act in lieu of the contractor in conducting an inquiry or investigation for violations of these laws and regulations.

33. ENVIRONMENTAL PROTECTION (OCT 1999)

In performing this contract the contractor shall comply with the requirements set forth in all applicable Federal and non-Federal environmental protection laws, codes, ordinances, Executive Orders, regulations, and directives.

34. PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS (DEC2013)

(a) The contractor shall make accelerated payments to small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business concern.

(b) The acceleration of payments under this clause does not provide any new rights under the Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontractors with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

35. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR2014)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business concern.

(b) The acceleration of payments under this clause does not provide any new rights under the Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontractors with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

36. DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)

(a) Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who will meet the eligibility criteria described in this clause, (3) whose employment is terminated by the Department of Energy because of contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its subcontractors over the simplified acquisition threshold.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower protections and policies under 41 U.S.C. 4712, as amended, and any other requirements established by the Laboratory.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(d) Remedies. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of this clause may result in:

1. Requiring the contractor to remove a contractor employee or employees from the performance of the contract;
2. Requiring the Contractor to terminate a subcontract;
3. Suspension of contract payments;
4. Loss of award fee under the award fee plan for the performance period in which the Government determined Contractor non-compliance;
5. Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
6. Suspension or debarment.

(e) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

(f) In conducting the activities under paragraph (b) and (c) of this clause, the contractor and the Laboratory may elect to act in lieu of the contractor in conducting an investigation for violations of these laws and regulations.

37. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

(a) The contractor shall comply with the requirements of the "DOE Contractor Employee Protection Program" at 10CFR Part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in all subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

(c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed $500,000.

38. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

1. "Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
2. "Forced labor" means knowingly providing or obtaining the labor or services, through the use of force, fraud, or coercion for the purpose of subject to involuntary servitude, wage bondage, debt bondage, or slavery.

"Forced labor" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(c) The Laboratory may not use the term Human Trafficking in a purely domestic criminal context.

39. RESEARCH MISCONDUCT (JUL 2005)

(a) The contractor is responsible for maintaining the integrity of research performed pursuant to this contract award including the prevention, detection, and remediation of research misconduct as defined by this clause, and the conduct of inquiries, investigations, and adjudication of allegations of research misconduct in accordance with the requirements of this clause.

(b) Unless otherwise instructed by the Laboratory, the contractor may use an initial inquiry into any allegation of research misconduct made to the contractor in lieu of conducting an investigation for violations of these laws and regulations.

(c) Additional information about Trafficking in Persons and forced labor in the performance of this contract award including the prevention, detection, and remediation of research misconduct is available for the Department of State's Office to Monitor and Combat Trafficking in Persons at http://www.state.gov/j/tip.

"Involuntary servitude" includes a condition of servitude induced by means of—

"Commercial sex act" means any sex act on account of which anything of value is given to or received by a person.

"Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.
This contract represents the full understanding of the parties and is the entire agreement between the parties. All negotiations between the parties have been merged into the contract and there are no understandings or agreements other than those incorporated into this contract.

43. TECHNICAL STANDARDS PROGRAM (FEB 2011)

This article applies if any Contractor personnel participate in development, review or selection activities related to DOE Technical Standards.

1. In the performance of this contract, the Contractor, when participating in the development of Commercial Off-The-Shelf (COTS) Technical Standards, computer technical standards review activities, and selection of technical standards for use to support assigned DOE missions and functions, must:

(a) Select, use, and adhere to appropriate voluntary consensus standards (VCSs), except where use of VCSs is inconsistent with law or impractical. (Note: VCSs are defined as standards developed or adopted by voluntary consensus standards bodies, both domestic and international.)

(b) Participate as appropriate in development and review of those DOE Technical Standards where the contractor has technical or programmatic interests, or will be affected by the content of DOE Technical Standards under development, or as directed by the Contracting Office.

(c) Designate and provide support for a coordinator for technical standards activities, including identification of the appropriate Subject Matter Experts to review draft DOE Technical Standards.

(d) Report participation in VCS activities conducted in support of DOE missions and functions through the Laboratory Technical Standards Manager in The Office of Contract Administration (COA) (Use Form DOE F 1300.2 (05/2010)).

(e) Flow down this requirement to subcontractor(s) at any tier to the extent necessary to ensure the contractor’s compliance with these requirements.

44. SUSPECT COUNTERFEIT PARTS (DEC 2007)

Notwithstanding any other provisions of this agreement, the contractor warrants that all items provided to the Laboratory shall be genuine, new and unused unless otherwise specified in writing by the Laboratory. Contractor further warrants that all items used by the contractor during the performance of work at the Argonne National Laboratory include all genuine, original, and new components, or are otherwise suitable for the intended purpose. Furthermore, the contractor shall indemnify the Laboratory, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product failure.

Types of material, parts, and components known to have been misrepresented include (but are not limited to) laboratory equipment and devices; plate, bar, shapes, channel members, and other heat treated materials and structural items; welding rod and electrodes; and computer memory modules. The contractor’s warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Laboratory. In addition, because falsification of information may constitute criminal conduct, the Laboratory may reject and retain such information or items, at no cost, and identify, segregate, and report such information or activities to cognizant Department of Energy officials.

40. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)

In the event a Government or Laboratory vehicle (including Laboratory-owned vehicle) will be utilized by the contractor during the course of work under this contract, contractor agrees to obtain and maintain appropriate levels of automobile liability coverage for property damage and bodily injury and such insurance shall be primary.

41. ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

(a) Definitions. As used in this clause—

“Driving”—

(1) Means operating a motor vehicle on an active roadway with the running motor, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the running motor when one has pulled over to the side of or, off, an active roadway and has halted it in a location where one can safely remain stationary.

“Text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially-designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a vehicle with the motor off or while safely parked.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009.

(c) The Contractor is encouraged to—

(1) Adopt and enforce policies that ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned vehicles;

(ii) Privately-owned vehicles when on official Government business or when performing any work or tasks on behalf of Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

42. INTEGRATION CLAUSE (OCT 1999)

This contract represents the full understanding of the parties and is the entire agreement between the parties. All negotiations between the parties have been merged into the contract and there are no understandings or agreements other than those incorporated into this contract.
Suspect/Counterfeit Bolt Headmark List

Any bolt on this list should be treated as defective without further testing.

All Grade 5 and Grade 8 fasteners of foreign origin which do not bear any manufacturers’ headmarks:

<table>
<thead>
<tr>
<th>Grade 5</th>
<th>Grade 8</th>
</tr>
</thead>
</table>

Grade 5 fasteners with the following manufacturers’ headmarks:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>J</td>
<td>Jinn Her (TW)</td>
</tr>
</tbody>
</table>

Grade 8 fasteners with the following manufacturers’ headmarks:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>J</td>
<td>Jinn Her (TW)</td>
</tr>
<tr>
<td>RT</td>
<td>Takai Ltd. (JP)</td>
</tr>
<tr>
<td>FM</td>
<td>Fastener Co. of Japan (JP)</td>
</tr>
<tr>
<td>KY</td>
<td>Kyoei Mfg. (JP)</td>
</tr>
<tr>
<td>UNY</td>
<td>Unytite (JP)</td>
</tr>
</tbody>
</table>

Grade 8.2 fastener with the following headmark:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

Grade A325 fasteners (BENNETT DENVER TARGET ONLY) with the following headmarks:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A325 KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

Headmarkings are usually raised – sometimes indented.  
*KEY: CA-Canada, JP-Japan, TW-Taiwan, YU-the former Yugoslavia