# APPENDIX A

## ARGONNE TERMS AND CONDITIONS

### FOREIGN CONCERNS – PERFORMANCE OUTSIDE THE U.S.

*(For Fixed Price Contracts)*

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1. COVENANT AGAINST CONTINGENT FEES (APR 1984)

(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 Laboratory shall have the right to rescind this contract without liability, or, at the option of the Contractor, to obtain, by written or other notice, the return, whether by refund or otherwise, 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 or selling agency business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

Contingent fee, as used in this clause, means any commission, percentage, brokerage, or other thing that is contingent upon the success that a person or concern has in securing a Government contract. Improper influence, as used in this clause, means any influence that induces or tends to induce any Government employee or contractor, or any other person or concern to which is applicable the laws of Illinois, to do any act in violation of law while acting under contract, or to act regarding a Government contract on any basis other than the merits of the matter.

2. RIGHTS TO PROPOSAL DATA (MAY 2001)

It is agreed that, as a condition of the award of this contract, and notwithstanding the provisions of any notice appearing on the proposal, the Government shall have the right to use, duplicate, disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

3. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, "days prior to the delivery of, or prior to completion of any servicing required by this contract of, any radioactive material either:

1. Radiological material requiring specific licensing under the regulations issued pursuant to 10 C.F.R. Part 70 or Part 71, or the Atomic Energy Act of 1954, as amended (42 C.F.R. Part 100, on the effect of 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 activity per item equals or exceeds 0.01 micromicrocuries.

Such notice shall specify 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 users of the items on notice as to the hazards involved (OMB No. 1020-3107).

• 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 all required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(d).

(b) if the material has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Laboratory Procurement Representative or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall—

• Be submitted in writing;
• Be accompanied by a statement that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and
• Cite the contract number on which the prior notification was submitted and the contract office to which it was submitted.

• All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government or the Laboratory shall be clearly marked and labeled as required by thelatest revision of MIL-STD-129 in effect on the date of the contract.

• This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

4. ENERGY EFFICIENCY IN ENERGY CONSUMING PRODUCTS (DEC 2007)

(a) Definition. As used in this clause—

"Energy-efficient product" means—

• A product that—

1. Meets Department of Energy and Environmental Protection Agency criteria for ENERGY STAR® or other energy-efficient product marking; or
2. The term "product" does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259);

• The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR®, products or FEMP-designated products) at the time of contract award, for products that are—

1. Delivered;
2. Acquired by the Contractor for use in performing services at a Federally-controlled facility;
3. Furnished by the Contractor for use by the Government;
4.specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

• The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless—

1. The energy-consuming product is not listed in the ENERGY STAR® Program or FEMP; or
2. Otherwise approved in writing by the Contracting Officer.

(b) Information about these products is available for—

1. http://www.energystar.gov/products; and
2. FEMP at http://www1.eere.energy.gov/femp/procurement/ee_requirements.html.

5. PREFERENCE FOR U.S. FLAG CARRIERS (JUN 2003)

(a) Definition. As used in this clause—

"International air transportation" means transportation by air between a place in the United States and a place outside of the United States or between two places both of which are outside of the United States.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

"Foreign assistance act of 1961 (22 U.S.C. 2353);

(b) The contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract or purchase order under this contract that may involve international air transportation.

6. PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEB 2006)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. App. 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessels are—

1. Acquired for a U.S. Government agency account;
2. Furnished to, or for the account of, any foreign nation without provision for reimbursement;
3. Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
4. Acquired with advance of funds, loans, or guarantees made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessels are—

1. The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both—
2. The Contracting Officer, and
3. [State reasons]

(c) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

(d) The requirement in paragraph (a) does not apply to—

1. Cargo carried in vessels as required or authorized by law or treaty;
2. Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);
3. Shipments of classified supplies when the classification prohibits the use of non-U.S. Government vessels; and
4. Subcontracts or purchase orders for the acquisition of commercial items unless—

(i) This contract is—

(A) A contract or agreement for ocean transportation services; or
(B) A construction contract; or
(ii) the supplies being transported are—

(A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracted items for t.o.b., destination shipment); or
(B) Shipped in direct support of U.S.military—

1. Contingency operations;
2. Exercises;

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the Office of Costs and Rates,

Maritime Administration
400 Seventh Street, SW
Washington, DC 20590

Subcontractor bills of lading shall be submitted through the Prime Contractor,

(g) The Contractor shall furnish these bills of lading copies—

1. within 20 working days of the date of loading for shipments originating in the United States, and
2. within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency,
(B) Name of vessel,
(C) Vessel flag of registry,
(D) Date of loading,
(E) Port of loading,
(F) Port of discharge,
(G) Description of commodity,
(H) Gross weight in pounds and cubic feet if available,
(I) Total ocean freight revenue in U.S. dollars.

(h) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

7. 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. SUBCONTRACTOR COST OR PRICING DATA (OCT 2010)

(a) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15-2 (to include any information reasonably required to explain the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting the cost or price, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-4 applies.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.404-2(c) that, to the best of its knowledge and belief, the data contained in paragraphs (a) and (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(2) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

11. SUBCONTRACTOR COST OR PRICING DATA—MODIFICATIONS (OCT 2010)

(a) The requirements of paragraphs (b) and (c) of this clause shall—

(1) be operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4; and

(2) be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15-2 (to include any information reasonably required to explain the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting the cost or price, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-4 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.404-2(c) that, to the best of its knowledge and belief, the data contained in paragraphs (a) and (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of certified cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either—

(1) the substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of certified cost or pricing data for the subcontract; or

(2) the substance of the clause at FAR 52.215-13, Subcontractor Certified Cost or Pricing Data—Modifications.

12. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (OCT 2010)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—

(1) the Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) a subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor’s Certificate of Current Cost or Pricing Data;

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which—

(1) the actual subcontract cost or price exceeded the price or cost that would not have increased in the amount to be offset even if the available data had been submitted.

(c) If the Laboratory Procurement Official determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have increased even if complete, and current certified cost or pricing data had been submitted.

(ii) An offset shall not be allowed if—

(A) The understated data were known by the Contractor to be understated before the “as of” date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Laboratory proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted.

13. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS (OCT 2010)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, except this clause does not apply to any modification if an exception under FAR 15.403-3 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this clause, was increased by any significant amount because—

(1) the Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) a subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor’s Certificate of Current Cost or Pricing Data;

(3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which—

(1) the actual subcontract cost or price exceeded the price or cost that would not have increased in the amount to be offset even if the available data had been submitted.

14. 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 specially manufactured for the Laboratory in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packaging.

(3) Place of delivery.

(4) Description of services to be performed.

(b) If any such change causes an increase or decrease in 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, as he or she determines appropriate by the Laboratory Procurement Official. The change order will be signed by the Laboratory Procurement Official, and that the data were not submitted before such date.

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have increased even if complete, and current certified cost or pricing data had been submitted.

(ii) An offset shall not be allowed if—

(A) The understated data were known by the Contractor to be understated before the “as of” date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Laboratory proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted.

(c) If the Laboratory Procurement Official determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have increased even if complete, and current certified cost or pricing data had been submitted.

(ii) An offset shall not be allowed if—

(A) The understated data were known by the Contractor to be understated before the “as of” date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Laboratory proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted.

15. EXTRAS (OCT 1999)

Except as 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.
The contractor warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose for which the item is to be used in its contract.

Energy Consuming Products

When the contractor is required to specify or deliver Energy Star® qualified products or products conforming to the Federal Energy Management Program’s (FEMP) Energy Efficiency Requirements, whether or not such products are applicable, provided the contractor shall incorporate the cost to the contractor in the bid if it is required to terminate the contract for default. Unless the contractor corrects or replaces the supplies within the delivery schedule, the Laboratory may require their delivery and make an equitable price reduction.

(1) If this contract provides for the performance of Laboratory quality assurance at source, and the contractor fails to inspect or test the items delivered hereunder within the time (i) when contractor inspection or tests will be performed in accordance with the terms and conditions of the contract and (ii) when the supplies will be ready for delivery, the Laboratory may require retesting and make an equitable price reduction.

(c) The contractor shall remove supplies rejected or required to be corrected However, the contract price to correct or replace the defective or nonconforming supplies at the original point of delivery or at the contractor’s plant at the Laboratory’s election, and in accordance with a reasonable delivery schedule as may be agreed upon between the contractor and the Laboratory, provided that the Laboratory may require a reduction in contract price if the contractor fails to comply with such a request. When supplies are returned to the contractor, the contractor shall bear the transportation cost to perform or act as required in (1) or (2) above and does not cure such failure within the time specified.

(2) The Laboratory may assign or transfer the contract or any interest therein to any other person or entity at any time, and the contractor shall have the right by contract or otherwise to replace or correct such supplies and charge to the contractor the cost occasioned by the Laboratory thereby.

19. PERMITS OR LICENSES (JUN 1999)

Exempt as otherwise directed by the Laboratory, the contractor shall procure all necessary permits or licenses required by Federal, State or local authorities or by any jurisdiction in which the work under this contract is performed.

20. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

Neither this contract nor any interest therein or claim thereunder shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory.

The Laboratory may assign or transfer the contract or any interest therein to any other person or entity at any time, and the contractor shall have the right by contract or otherwise to replace or correct such supplies and charge to the contractor the cost occasioned by the Laboratory thereby.

21. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2009)

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

22. SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2013)

(a) Definitions. As used in this clause—

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101, definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the contractor or subcontractor at any tier.

(b) To the maximum practicable extent, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(1) The Contractor shall insert the following clauses in subcontracts for commercial items:


- 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212(a)


(c) To the extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(d) The Contractor shall remove supplies rejected or required to be corrected However, the contract price to correct or replace the defective or nonconforming supplies at the original point of delivery or at the contractor’s plant at the Laboratory’s election, and in accordance with a reasonable delivery schedule as may be agreed upon between the contractor and the Laboratory, provided that the Laboratory may require a reduction in contract price if the contractor fails to comply with such a request. When supplies are returned to the contractor, the contractor shall bear the transportation cost to perform or act as required in (1) or (2) above and does not cure such failure within the time specified.

(e) The Contractor shall comply with all labor laws and regulations in effect at the time of delivery for the work performed under this contract.

(f) The Contractor shall provide the Laboratory with the following information:

- Name and address of the subcontractor
- A copy of the subcontract

(g) The Contractor shall remove supplies rejected or required to be corrected However, the contract price to correct or replace the defective or nonconforming supplies at the original point of delivery or at the contractor’s plant at the Laboratory’s election, and in accordance with a reasonable delivery schedule as may be agreed upon between the contractor and the Laboratory, provided that the Laboratory may require a reduction in contract price if the contractor fails to comply with such a request. When supplies are returned to the contractor, the contractor shall bear the transportation cost to perform or act as required in (1) or (2) above and does not cure such failure within the time specified.

(h) The Contractor shall provide the Laboratory with the following information:

- Name and address of the subcontractor
- A copy of the subcontract

(i) The Contractor shall remove supplies rejected or required to be corrected However, the contract price to correct or replace the defective or nonconforming supplies at the original point of delivery or at the contractor’s plant at the Laboratory’s election, and in accordance with a reasonable delivery schedule as may be agreed upon between the contractor and the Laboratory, provided that the Laboratory may require a reduction in contract price if the contractor fails to comply with such a request. When supplies are returned to the contractor, the contractor shall bear the transportation cost to perform or act as required in (1) or (2) above and does not cure such failure within the time specified.

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23. PROPERTY (DEC 2000)

(a) Furnishing of Government property. The Laboratory and the Government reserve the right to furnish any property or services required for the work to be performed by this contract.

(b) Title to property. Except as otherwise provided by the Laboratory Procurement Representative, title to all materials, equipment, supplies, and personal property of any description purchased by the contractor, for the cost of which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass directly from the vendor to the Government. In the event that the contractor is determined liable for the loss, destruction, or damage to the Government property in the possession or custody of the contractor with a value above the simplified acquisition threshold, the contractor shall immediately inform the Laboratory Procurement Representative of the occasion of any disposition, or the agreed fair value of any such property acquired by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or repossess any item of Government property. The contractor shall make such disposition of rejected items as the Laboratory Procurement Representative shall direct. Title to property which is not of a description purchased by the contractor, for the cost of which is reimbursable to the contractor under this contract, shall pass to and vest in the United States upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory or Government in the possession or custody of the contractor purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or repossess any item of Government property. Nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. Title to Government property shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory or Government in the possession or custody of the contractor purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or repossess any item of Government property. Nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. Title to Government property shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory or Government in the possession or custody of the contractor purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or repossess any item of Government property. Nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. Title to Government property shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory or Government in the possession or custody of the contractor purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or repossess any item of Government property. Nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. Title to Government property shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory or Government in the possession or custody of the contractor purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or repossess any item of Government property. Nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. Title to Government property shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory or Government in the possession or custody of the contractor purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or repossess any item of Government property. Nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty. Title to Government property shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory or Government in the possession or custody of the contractor purchased or furnished by the contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as Government property. Title to Government property shall not be affected by the insolvency of the contractor, or by the right to inspect or inspect and seize property, or repossess or rerepos
by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government of the United States for such taxes. The Government of the United States shall be entitled to repayment of any amount of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(f) The contract price shall be decreased by the amount of any tax or duty, other than an excise tax, that is imposed or collected on or after the date of the contract or on a subcontract entered into in connection with such contract, or (2) includes any person who offers to furnish or furnish any supplies, materials, equipment, or services of any kind.

(g) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds $250.

(h) If the Contractor obtains a reduction in tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that was either included in the initial contract price or was the basis of a kickback charge, the reduction in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs.

(i) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or its political subdivisions or which the governments of the United States and of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

27. INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF AGREEMENT (FEB 2008)

In the event of inconsistency between any terms of this agreement and any translation into another language, the English language meaning shall control.

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

The Laboratory reserves the right to terminate this contract, or any part hereof, for its sole convenience subject to the terms of this section; the contractor will comply with all work hereunder and shall immediately cease any and all of its suppliers and subcontractors to cease work.

Subject to the terms of this contract, the contractor shall be paid a portion of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable convenience. In the event of such termination, the contractor shall immediately stop all work.

(b) If the Laboratory terminates this contract in whole or in part, it may acquire, under the terms and conditions of this contract, the property described in paragraphs (d)(1) and (d)(2) above, and be compensated for the value of such property, in accordance with section 486 of the Federal Acquisition Regulation, and the applicable laws and regulations of the United States.

(c) Definitions.

(1) "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to a person or their designee as a bribe, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

29. DEFAULT (OCT 1999)

(a)(1) The Laboratory may, subject to paragraphs (c) and (d) below, by written notice of default to the contractor, terminate this contract in whole or in part if the contractor fails to —

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension thereof;

(ii) Make progress, so as to endanger performance of this contract (see subparagraph (a)(2) below); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(b) The Laboratory’s right to terminate this contract under subdivisions (1)(ii) and (1)(iii) above may be exercised if the contractor fails to meet the performance requirements of paragraph (a) above in whole or in part or if the contractor shall be in default.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed $150,000.

30. ANTI-KICKBACK PROCEDURES (OCT 2010)

This clause applies to all subcontracts that exceed $150,000.

(a) Definitions

(1) "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to a person or their designee as a bribe, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(2) "Person," as used in this clause, means a corporation, partnership, business association (including joint venture), trust, estate, stock company, or other unincorporated association.

(3) "Prime Contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

(4) "Prime Contractor," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

(5) "Subcontractor Employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(6) "Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or Subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind.

(7) "Subcontractor," as used in this clause, means any person, other than the prime Contractor, who offers to furnish or furnish any supplies, materials, equipment, or services of any kind.

31. 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 supplies or services if such acquisition is prohibited by Executive Order 13224 (OFAC's regulations at 31 CFR chapter V and/or on http://www.treas.gov/offices/enforcement/ofac/OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) The Contractor may not acquire any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed $100,000.

32. RESTRICTIONS ON SUBCONTRACTORS RELATING TO THE GOVERNMENT (SEP 2006) — APPLICABLE TO CONTRACTS WHICH EXCEED $100,000

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or service originally acquired by or for furnishing by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales of commercial items to the Government of the United States is treated differently from any other prospective purchaser for the sale of the commercial item(s).

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed $150,000.

33. PAYMENTS (FEB 2004)

(a) Payment shall be made for items accepted by the Laboratory that have been delivered to the delivery destinations set forth in this contract. Upon the submission of proper invoices or other documents requesting payment, payment shall be made for items delivered. The Laboratory shall pay the contract price for completed supplies delivered and accepted. The contractor and the Laboratory shall agree on the amount of payment for manufacturing materials delivered and accepted for use in the performance of this contract. Payment shall be made for early payment, time shall be computed from the date the invoice is received at the Laboratory.

(b) The Laboratory shall pay the contract price for completed supplies delivered and accepted. The contractor and the Laboratory shall agree on the amount of payment for manufacturing materials delivered and accepted for use in the performance of this contract. The Laboratory may withhold from these amounts any sums the Laboratory determines to be necessary to protect the Laboratory against loss because of outstanding claims or claims on forms such as those listed in section 486.205-4 of the Federal Acquisition Regulation. The Laboratory may revert from these sums any amounts the Laboratory determines to be necessary to protect the Laboratory against loss because of outstanding claims or claims on forms such as those listed in section 486.205-4 of the Federal Acquisition Regulation.

(c) If, after termination, it is determined that the contractor was not in default or that the default was excused, any rights and obligations of the Laboratory shall be the same as if the termination had been for the convenience of the Government.

(d) Any rights and remedies of the Laboratory in this clause are in addition to any other rights and remedies provided by law or under this contract.

34. COMPLETION OF TRANSACTIONS DOCUMENTS

(1) The Contractor shall submit to the address identified below, for prepayment audit, transportation documentation on which the United States will assume freight charges that were paid—

(a) By the Contractor and added to the invoice for contractor supplied goods and services.

(b) By a first-tier subcontractor and added to the invoice for contractor supplied goods and services.

(2) Contractors shall only submit for audit those bids of shipping freight charges exceeding $500. Bills under $200 shall be retained on-site by the Contractor and made available for one audit.

(3) Contractors shall submit the above referenced transportation documents with the Subcontractor to - Argonne National Laboratory, 9700 South Cass Avenue, Accounts Payable Building 201, Lemont, IL 60439
34. LIMITATION ON PAYMENTS TO INFUENCE CERTAIN FEDERAL CONTRACTS (TAC 2010)

This clause applies to all subcontracts that exceed $500,000.

(a) Definitions. As used in this clause—

“Agency” means “executive agency” as defined in Federal Acquisition Regulation (FAR) 2.101.

“Covered Federal action” means any of the following actions:

4. Entering into any cooperative agreement.
5. Entering into any contract, grant, or cooperative agreement.

“Indian tribe” and “tribal organization” have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaska Native village corporations, Inupiat Corporations, Alaska Native Regional Corporations, Alaska Native Cooperative Organizations, and any other instrumentality of a local government.

“Penalties.” The payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) As used in this clause, “professional and technical services” are limited to advice and analysis directly applying any professional or technical discipline, for example: services to propose or present in connection with competitive solicitation, as defined in FAR 35.602.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirement in the actual award documents.

35. 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 Government within five days of the initiation of the proceedings. That notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a list of OMB Standard Form LLLs (name and address of lobbying registrants or individuals performing services), the contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure form using OMB Standard Form LLL.

36. INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF AGREEMENT

In the event of inconsistency between any terms of this agreement and any translation into another language, the English language meaning shall control.

37. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

“Coection” means—

1. Threats of serious harm or to, or physical restraint against, any person;
2. Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against, any person;
3. The abuse or threatened abuse of the legal process.

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

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

“Forced labor” means knowingly providing or obtaining the labor or services of a person—

1. By threats of serious harm to, or physical restraint against, that person or another person; or
2. By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
3. By means of the alteration of the law of the local legal process.

“Involuntary servitude” includes a condition of servitude induced by means of—

1. Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
2. Any other abuse or threatened abuse of the legal process.

“Severe forms of trafficking in persons” means—

1. Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced performs such act while under the age of 18 years of age.
2. The recruitment, harboring, transportation, or provision of a person for labor or services, or maintaining, housing, or subsisting of a person, with the knowledge that the person is suffering serious harm or physical restraint.
3. “Involuntary servitude” includes a condition of servitude induced by means of—
4. Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
5. No abuse or threatened abuse of the legal process.

(b) Policy. The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors shall—

1. Engage in severe forms of trafficking in persons during the period of performance of the contract;
2. Procure commercial sex acts during the period of performance of the contract; or
3. Use forced labor in the performance of the contract;
(c) Contractor requirements. The Contractor shall—

(i) Notify its employees of—

(A) The United States Government’s zero tolerance policy described in paragraph (b)(i) of this clause; and

(B) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, discharge, reduction in benefits, or termination of employment; and

(ii) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b)(i) of this clause.

(d) Notification. The Contractor shall inform the Contracting Officer immediately of—

(1) Any information it receives from any source regarding apparent gross professional misconduct.

(2) Any information it receives from any source regarding apparent misappropriation of the Government’s funds or property.

(3) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) Remedies. In addition to other remedies available to the Government, the Contractor’s failure to comply with the requirements of paragraphs (c), (d) or (f) 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, consistent with the award fee plan, for the performance period in which the Contractor determined Contractor non-compliance.

(5) Termination of the contract for default or cause, in accordance with the termination clause of this contract, or

(f) Suspension or debarment.

(1) A corporate officer or a designee of the Contractor shall notify the Laboratory Procurement Official of any apparent gross professional misconduct.

(2) The Contractor shall, in accordance with 21 CFR part 10.10, cooperate with the Laboratory in conducting an investigation into an allegation of research misconduct if the LPO finds that:

(A) The research organization is not prepared to handle the allegation in a manner consistent with the Laboratory’s policies 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.

(B) The Contractor understands that the materials and/or information being transmitted under the contract for export is subject to federal and/or state export control laws and 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.

(C) The term “debarred” means that the Contractor has been debarred, suspended, or proposed for debarment.

(3) The Contractor may appeal the Laboratory’s decision to the Office of Acquisition and Contract Administration at the Department of Energy.

(4) The Contractor may appeal the Laboratory’s decision to the Office of Acquisition and Contract Administration at the Department of Energy.

(5) The Contractor may appeal the Laboratory’s decision to the Office of Acquisition and Contract Administration at the Department of Energy.

38. PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010)

Applies To Contracts That Exceed $30,000 in Value

(a) Definition. “Commercially available off-the-shelf (COTS) item,” as used in this clause—

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

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

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1701), such as petroleum products.

(b) The Government suspends or debars Contractors to protect the Government’s interests. Other than a subcontractor providing a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract in excess of $50,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each debarred subcontractor whose subcontract will exceed $50,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, the identity of the debarring authority and, if applicable, the principal (or principals), if it is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A Contractor or a designee of the Contractor shall notify the Laboratory Procurement Manager, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 in the System for Award Management (SAM)). The notice must include the following:

(1) Name of the subcontractor.

(2) The Contractor’s knowledge of the reasons for the subcontractor being in the SAM.

(3) The compelling reasons for doing business with the subcontractor notwithstanding its inclusion in the SAM.

(4) The systems and procedures the Contractor has established to ensure that it is fully informed regarding the Government’s suspension or debarment of such subcontractor and the specific basis for the party’s debarment, suspension, or proposed debarment.

(e) Subcontracts. Unless this is a contract for commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e), (appropriately modified for the identification of the parties in each subcontract), that—

(1) Exceed $30,000 in value; and

(2) Is not a subcontract for commercially available off-the-shelf items.

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 Procurement Official (LPO), the contractor must conduct an internal inquiry into any allegation of research misconduct. If the contractor determines that there is sufficient evidence to proceed to an investigation, it must notify the contracting officer and, unless otherwise instructed, the contractor must:

(1) Conduct an investigation that develops a complete factual record and an examination of such record leading to either a finding of research misconduct and an identification of corrective actions and sanctions or an determination that no further action is warranted.

(2) If the investigation leads to a finding of research misconduct, conduct an adjudication by a responsible official who was not involved in the inquiry or investigation and is independent of the contractor’s executive and operating management. Any such adjudication must include a review of the investigative record and, as warranted, a recommendation of appropriate corrective actions and sanctions.

(c) The contractor shall notify the Laboratory immediately of any professional misconduct allegations that are determined to be of concern and that have not been resolved.

(d) The contractor may request that the Laboratory conduct or oversee an investigation into an allegation of research misconduct if the LPO finds that:

(1) The research organization is not prepared to handle the allegation in a manner consistent with the Laboratory’s policies 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.

(2) The contractor shall provide the subjects of allegations with notice of the allegations and have taken no action to address the allegations.

(3) The contractor shall also provide the subjects of allegations with notice of the allegations and have taken no action to address the allegations.

(4) The contractor shall provide the subjects of allegations with notice of the allegations and have taken no action to address the allegations.

(e) The Laboratory reserves the right to pursue such remedies and other actions as it deems appropriate to address any of the terms and conditions, laws and regulations involving the Contractor.

(f) The Laboratory may elect to conduct an inquiry into an allegation of research misconduct promptly, but thoroughly. Generally, an investigation should be completed within 60 days of receipt of the investigation.

(g) By executing this contract, the contractor provides its assurance that it has established an administrative process for performing an inquiry, mediating, if possible, investigating, and reporting research misconduct. Any investigative report, any recommendations made to the contractor’s adjudicating official, shall be taken into account as mitigating factors in assessing the need for such actions. If the Laboratory pursues any such action, it will inform the subject of the action of the outcome and any applicable appeal procedures.

(h) Definitions. “Research misconduct” means formal a review of a record of investigation of alleged research misconduct to determine whether and what corrective actions and sanctions should be taken. “Fabrication” means making up data or results and reporting or representing them. “Falsification” means making a false entry, alteration, or suppression of data or results, or changing or omitting data or results such that the research is not accurately represented in the research materials presented. “Findings of Research Misconduct” means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a serious deviation from acceptable practices of the research community and that it is knowingly, intentionally, or recklessly committed.

(i) Research misconduct means misrepresentation of data or results, or processes, or changing or omitting data or results such that the research is not accurately represented in the research materials presented.

(j) Research record means the record of all data or results that embody the facts resulting from scientific inquiries, including, but limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

(k) By executing this contract, the contractor provides its assurance that it has established an administrative process for performing an inquiry, mediating, if possible, investigating, and reporting research misconduct. Any investigative report, any recommendations made to the contractor’s adjudicating official, shall be taken into account as mitigating factors in assessing the need for such actions. If the Laboratory pursues any such action, it will inform the subject of the action of the outcome and any applicable appeal procedures.

(l) The contractor must insert or have inserted the substance of this clause, including paragraph (j), in subcontracts at all tiers that involve research.

40. EXPORT LICENSE AGREEMENT (AUG 2002)

The contractor understands that the materials and information being transmitted under the performance of this contract may be subject to U.S. Government laws and regulations regarding export or re-export. This includes deemed exports which are any communication of technical data to a foreign national, whatever it takes place in the United States or abroad. Technical information (data) provided to a foreign national verbally, by mail, by telephone or facsimile, through visits or workshops, or through computer communications (networks) involves an export. If a communication or process, it may constitute an export of technical data, if significant details are revealed. It is solely the contractor’s obligation to obtain all appropriate export licenses, keep required records, and comply fully with all applicable U.S. export control laws and regulations. If the contractor determines that it is appropriate, the contractor agrees not to export directly or indirectly any technology, software or materials contained in this contract, and that it will comply with its own administrative process and the requirements of 10 CFR part 733 for performing an inquiry, possible mediation, investigation and reporting of research misconduct.

The contractor must insert or have inserted the substance of this clause, including paragraph (j), in subcontracts at all tiers that involve research.
42. CONFLICTS OF DOCUMENTATION (MAY 2001)

Any discrepancy, inconsistency, or conflict in the SCHEDULE or in one or more of the documents identified in the article entitled, “Applicable Documentation”, which can be reasonably ascertained by the contractor shall be immediately submitted to the laboratory for its written decision. Any work undertaken by the contractor without such decision shall be at the contractor’s own risk.

43. LIMITATIONS PERIOD (MAY 2001)

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under the contract must be identified in writing to the Laboratory Procurement Official. Such written notification must be received by the Laboratory Procurement Official within two (2) years (unless an earlier period is stated elsewhere in the contract) after the completion of work under the contract or after the cause of action has arisen, whichever occurs first, otherwise the contractor shall be barred from pursuing such action.

44. INTEGRATION CLAUSE (MAY 2001)

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.

45. 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 Department of Energy (DOE) Technical Standards, conducting technical standards review activities, and selecting technical standards for use to support assigned DOE missions and functions, must:

2. 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.)

3. 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 Officer.

4. 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.

5. 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)].

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

46. 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, desecrated, degraded, or result in product failure.

Types of material, parts, and components known to have been misrepresented include (but are not limited to) fasteners, hoisting, rigging, and lifting equipment; cranes; hoists; valves; pipe and fittings; electrical 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 or documentation 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.
**SUSPECT/COUNTERFEIT PART**

**HEADMARK LIST**

**ALL GRADE 5 AND GRADE 8 FASTENERS OF FOREIGN ORIGIN WHICH DO NOT BEAR ANY MANUFACTURERS’ HEADMARKS**

Grade 5

Grade 8

**GRADE 5 FASTENERS WITH THE FOLLOWING MANUFACTURERS’ HEADMARKS:**

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

**GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS’ HEADMARKS:**

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<thead>
<tr>
<th>MARK</th>
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</thead>
<tbody>
<tr>
<td>A</td>
<td>Asahi Mfg. (JP)</td>
</tr>
<tr>
<td>NF</td>
<td>Nippon Fasteners (JP)</td>
</tr>
<tr>
<td>H</td>
<td>Hinomoto Metal (JP)</td>
</tr>
<tr>
<td>M</td>
<td>Minamida Sieybo (JP)</td>
</tr>
<tr>
<td>MS</td>
<td>Minato Kogyo (JP)</td>
</tr>
<tr>
<td></td>
<td>Hollow Triangle</td>
</tr>
<tr>
<td></td>
<td>Infasco (CA TW JP YU) (Greater than 1/2 inch dia)</td>
</tr>
<tr>
<td>E</td>
<td>Daiei (JP)</td>
</tr>
</tbody>
</table>

**MARK | MANUFACTURER**

|       | KS | Kosaka Kogyo (JP) |

**GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:**

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<th>MANUFACTURER</th>
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<tbody>
<tr>
<td>KS</td>
<td>KS</td>
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**GRADE A325 FASTENERS (BENNIGHT DENVER TARGET ONLY) WITH THE FOLLOWING HEADMARKS:**

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
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<tbody>
<tr>
<td>A325</td>
<td>A325 KS</td>
</tr>
<tr>
<td>Type 1</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

**Type 2**

**Type 3**

Headmarkings are usually raised – sometimes indented.

**KEY:** CA-Canada, JP-Japan, TW-Taiwan, YU-Yugoslavia

Any bolt on this list should be treated as defective without further testing. Or, if you see any indication that a circuit breaker may be used or refurbished see: [http://www.saftek.com/worksafe/bull82.txt](http://www.saftek.com/worksafe/bull82.txt)