## 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 (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 to otherwise adjudicate the matter 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 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 supervision and control 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.

“Contingent fee,” as used in this clause, means any arrangement that offers compensation or remuneration to a Government employee or officer to influence this contract.

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) Definitions. As used in this clause — International air transportation means transportation by air of cargo, property, or personnel not exceeding the following maximums: (i) cargo, property, or personnel at any point on the journey is not to exceed 100,000 gallons of liquids or 20,000 cubic feet of cargo; (ii) personnel shall not exceed 666.667 individuals per flight. (b) Notice of Radioactive Materials. Federal law requires the Contractor to insert the following in all contracts for transportation of cargo containing hazardous materials:...
11. 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 subcontractor furnished cost or pricing data that were not complete, accurate, and current as of the time the Contracting Officer was presented them in accordance with FAR 49.403-4, then the contract price 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 subcontractor or prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit, by which

(1) The actual cost to the Contractor, if there was no subcontract, was less than the actual subcontract or

(2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the data was accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) 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 49.403-4 on the date of agreement on price or the date of award, whichever is later.

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

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

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

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

(1) the contractor or subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as of the date of agreement on the price or the date of award, whichever is later; or

(2) before or after any subcontracting modification to the contract involving a price 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 certify in substantially the form prescribed in FAR 49.403-4, that, to the best of the Contractor’s knowledge and belief, the data submitted in accordance with paragraph (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.

(c) 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 on the date of agreement on price or the date of award, whichever is later.

13. 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, modify the contract price as follows:

(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 packing.

(3) Place of delivery.

(4) Description of services to be performed.

(b) Any change in the contract price or resulting increase in the contract price shall be effective only if the change in the contract price and resulting increase in the contract price is acceptable to the Laboratory.

(c) The contractor must submit any "proposal for adjustment" (hereafter referred to as proposal) on a contractor's proposal for adjustment form, before the "as of" date specified by the Laboratory in the contractor's proposal for adjustment form. A contractor's proposal for adjustment form shall be prepared as follows:

(1) The contractor certifies to the Contracting Officer that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset.

(2) The contractor proves that the cost or pricing data were available before the "as of" date.

(3) The contractor proves that the facts demonstrate that the contract price would not have increased in the amount of the offset if the data were not available before the "as of" date.

(4) The Laboratory proves that the facts justify the offset.

(d) The contractor's proposal for adjustment shall include evidence that:

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

(2) If any change in the contract price and resulting increase in the contract price are a result of defects in data in issue, the contractor shall be entitled to an offset.

(e) If any reduction in the contract price under this clause does not reduce the price of items for which payment was made before the date of the modification reflecting the price reduction, the contractor shall be entitled to an offset.

(f) The contractor shall submit a Certificate of Current Cost or Pricing Data; or

(g) The contractor shall submit a Certificate of Current Cost or Pricing Data.

14. 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.

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.

16. ELECTRONIC SIGNATURES (JUN 2014)

When the contract requires the specification or delivery of energy consuming products for use in Federal facilities, the contractor shall certify that any products or products conforming to the Federal Energy Management Program's (FEMP) Energy Efficiency Requirements, whatever may be applicable, provided products with such a designation are available and are life cycle cost effective in meeting applicable performance standards, information about these products is available for EnergyStar® at:

http://www.energystar.gov/products

http://www.eere.energy.gov/energyprocurement/eeq-requirements.cfm.

When the contract requires the specification or delivery of televisions, the contractor shall certify that any products or products conforming to the Federal Energy Management Program's (FEMP) Leadership in Environmental, Energy, and Economic Performance (http://www.archives.gov/federal-
16. RESPONSIBILITY FOR SUPPLIES (OCT 1999)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance by the Laboratory. The Laboratory may require the contractor to furnish materials and services to which it has title. The Laboratory may require the contractor to furnish materials and services in accordance with Section 52.210-6(d) of this clause.

(b) The Laboratory shall accept or reject supplies as promptly as practicable after delivery, unless the contract specifically provides for earlier passage of title.

(c) If the contractor fails to promptly remove, replace or correct rejected supplies that are required to be removed or replaced, the Laboratory may either (1) by contract or otherwise provide for their delivery and make an equitable price charge to the contractor or (2) terminate the contract for default. The Laboratory may also charge the contractor for any additional cost of inspection or test necessary to ascertain the conformity with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the contractor of the obligations under the contract.

(d) The contractor has the right to inspect and test all supplies called for by the contract, at the contractor’s option, and the Laboratory shall afford the contractor the opportunity to do so. The Laboratory shall jointly develop procedures for acceptance and rejection of supplies.

(e) When supplies are returned to the contractor, the contractor shall bear the cost of such returns and the cost of packaging and handling, unless the contract specifically provides for earlier passage of title.

(f) If the Laboratory elects not to require correction or replacement, the Laboratory may charge the contractor the cost occasioned thereby.

(g) If the Laboratory accepts supplies, the Laboratory may require the contractor to furnish additional supplies at no cost to the Laboratory. The Laboratory shall furnish written notification to the contractor of this requirement. The contractor shall furnish additional supplies within the time specified by the Laboratory.

(h) If the contractor fails to comply with the requirements of paragraph (g) of this clause, the Laboratory may require the contractor to furnish additional supplies or to terminate the contract for default.

(i) The Laboratory may also charge the contractor for any additional cost of inspection or test necessary to ascertain the conformity with this paragraph.

(j) The Laboratory has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Laboratory shall perform inspections and tests in a manner that will not unduly delay the work. The Laboratory assumes no contractual obligation to perform any inspection or test for the benefit of the contractor unless specifically set forth elsewhere in this contract.

17. INSPECTION OF SUPPLIES—FIXED-PRICE (OCT 1999)

(a) Definition. “Supplies,” as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The contractor shall provide and maintain an inspection system acceptable to the Laboratory over a period not to exceed 3 years after the effective date of this clause. The Laboratory shall require the contractor to provide materials and services to which it has title. The Laboratory may require the contractor to furnish materials and services in accordance with Section 52.210-6(d) of this clause.

(c) The Laboratory has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Laboratory shall perform inspections and tests in a manner that will not unduly delay the work. The Laboratory assumes no contractual obligation to perform any inspection or test for the benefit of the contractor unless specifically set forth elsewhere in this contract.

(d) If the Laboratory performs inspection or test on the premises of the contractor or a subcontractor, the contractor shall furnish, and the Laboratory may require the contractor to furnish, additional supplies at no cost to the Laboratory. The Laboratory shall jointly develop procedures for acceptance and rejection of supplies.

(e) The Laboratory has the right to inspect and test all supplies called for by the contract, at the contractor’s option, and the Laboratory shall afford the contractor the opportunity to do so. The Laboratory shall jointly develop procedures for acceptance and rejection of supplies.

(f) The contractor has the right to inspect and test all supplies called for by the contract, at the contractor’s option, and the Laboratory shall afford the contractor the opportunity to do so. The Laboratory shall jointly develop procedures for acceptance and rejection of supplies.

18. PERMITS OR LICENSES (OCT 1999)

(a) Except as otherwise directed by the Laboratory, the contractor shall procure all necessary permits or licenses and abide by all applicable laws and regulations of the United States, the State, territory, and political subdivision in which the work under this contract is performed.

(b) Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory. The Laboratory may assign the whole or any part of this contract to the Government or its designee.

(c) The contractor shall retain the right to assign any part of this contract underwritten without the prior approval of the Laboratory. When requesting such approval, the contractor shall furnish the Laboratory with a copy of the proposed subcontract, a description of the work proposed to be subcontracted, and such other information as the Laboratory shall require.

19. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory. The Laboratory may assign the whole or any part of this contract to the Government or its designee.

(b) The contractor shall retain the right to assign any part of this contract underwritten without the prior approval of the Laboratory. When requesting such approval, the contractor shall furnish the Laboratory with a copy of the proposed subcontract, a description of the work proposed to be subcontracted, and such other information as the Laboratory shall require.

20. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2008)

All information technology acquired under this Agreement shall include the appropriate information technology policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology website at http://csrc.nist.gov/ and Executive Orders 13027, 13030, 13039, and 13535.

21. SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2014)

(a) Definitions. As used in this clause—

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

"Contractor" includes the contractor and all subcontractors below the prime contractor under this contract.

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

(b) To the maximum 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.

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2013) (41 U.S.C. 3509), if the subcontract exceeds $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the Civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) Reserved

(iii) Reserved

(iv) Reserved

(v) Reserved

(vi) Reserved

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Oct 1995) (29 U.S.C. 1430), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).


(x) Reserved

(xi) 52.247-44, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2301), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

(d) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(e) The Contractor shall include these terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

22. PROPERTY (DEC 2000)

(a) FURNISHING OF GOVERNMENT PROPERTY. The Laboratory and the Government reserve the right to furnish property to the contractor.

(b) TITLE TO PROPERTY. Except as otherwise provided by the Laboratory Procurement Representative, title to all materials, equipment, supplies, and tangible personal property of every kind and 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 Government to the Contractor. The contractor shall make such disposition of rejected items as the Laboratory Procurement Representative shall direct. Title to other property, the cost of which is reimbursable to the contractor under this contract, 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 and property purchased or furnished by the contractor shall be returned to the Government in accordance with paragraph (a) of this clause, or as directed by the Laboratory Procurement Representative, if the contractor shall be in default of the contract with the Government, or shall be no longer entitled to use, or fail to use, or lose its identity as personality by reason of affixation to any realty.

(c) IDENTIFICATION. To the extent directed by the Laboratory Procurement Representative, the contractor shall identify Government property coming into the contractor’s possession or use and shall return to the Government promptly upon request. The contractor shall not identify such items as Government property. The contractor may assign as Government property any item not owned by the Government, 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.

(d) DISPOSITION. The contractor shall make such disposition of Government property which has come into the possession of the contractor as the Laboratory Procurement Representative may direct during the progress of the work or upon completion or termination of this contract. The contractor may use such items and conditions as the Laboratory Procurement Representative may approve, sell, or exchange such property, or acquire such property at a price agreed upon by the Laboratory Procurement Representative and the contractor before such property comes into the contractor’s possession. The contractor shall not sell or otherwise dispose of any property, the cost of which is reimbursable to the Laboratory, without the prior approval of the Laboratory Procurement Representative. The contractor may be required to report the disposition of any Government property which had come into the possession or custody of the contractor under this contract.

(e) PROTECTION OF GOVERNMENT PROPERTY. The contractor shall protect Government property—management of high-risk property and classified materials.
The contractor shall include this clause in all cost reimbursable subcontracts.

Government property for Government use only. Government property shall be used only for the Risk of loss of Government property.

A separate and discrete major task or operation in connection with the performance of Government property in the possession or custody of the contractor with a value above the.

The contractor shall take all reasonable precautions, and such other actions as may be necessary, in accordance with paragraph (j)(1) of this clause.

Property Management (i)

The contractor shall establish, administer, and properly maintain an approved property management system in accordance with paragraph (j)(1) of this clause.

Full integration with the contractor’s other administrative and financial systems; and

A method of continuously improving property management practices through the identification of best practices established by “best in class” performance.

Approval of the contractor’s property management system shall be contingent upon the completion of the baseline inventory as provided in subparagraph (ii) of this clause.

In order for a property management system to be approved, it must provide for:

(A) Comprehensive coverage of property from the requirement identification, through its life cycle, to final disposition;

(B) Employee personal responsibility and accountability for Government- owned property;

(C) Full integration with the contractor’s other administrative and financial systems; and

(D) A method of continuously improving property management practices through the identification of best practices established by “best in class” performance.

Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within the scope of this clause on a line item basis. The line items’ base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of certified cost or pricing data not otherwise required by law or regulation.

When requested by the Contracting Officer, the contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.

The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for construction and architect-engineers services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

The contractor shall furnish a list of project personnel to the Laboratory for approval and the contractor shall not employ any employee who has been terminated in accordance with this contract and shall not reassign or remove any of them without the consent of the Laboratory. Whenever, for any reason, the contractor shall be unable to perform work under this contract, the contractor shall, with the approval of the Laboratory, replace such employee with an employee of substantially equal abilities and qualifications.

23. PERSONNEL (OCT 1999)

The contractor shall include this clause in all cost reimbursable subcontracts.

24. INTEGRITY OF UNIT PRICES (OCT 2010)

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

Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within the scope of this clause on a line item basis. The line items’ base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of certified cost or pricing data not otherwise required by law or regulation.

When requested by the Contracting Officer, the contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.

The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for construction and architect-engineers services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

25. TAXES FOREIGN FIXED PRICE CONTRACT (JUN 2003)

The contractor shall be paid by the amount of any after-imposed tax or of any tax or duty specifically excluded from the contract price by a provision of this contract that the contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and liability for such tax, interest, or penalty was not incurred through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) of this clause.

The contract price shall be increased by the amount of any after-received tax, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and liability for such tax, interest, or penalty was not incurred through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) of this clause.

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 either was included in the contract price or was the basis of an increase 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.

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 is exempt for the reason that such taxes or duties are paid by or on behalf of the United States.

The Contractor shall be paid by the amount of any after-received tax, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and liability for such tax, interest, or penalty was not incurred through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) of this clause.

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 either was included in the contract price or was the basis of an increase 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.

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 is exempt for the reason that such taxes or duties are paid by or on behalf of the United States.

26. INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF AGREEMENT (FEB 2000)

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

27. TERMINATION OF CONVENIENCE OF THE LABORATORY (OCT 1999)

The Laboratory reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the contractor shall immediately step all work under this contract and shall immediately cease all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. The contractor shall within 24 hours after notice of such termination, the contractor shall be paid the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the contractor can demonstrate to the satisfaction of the Laboratory using its standard record keeping practices, have resulted from the termination. The contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Laboratory any right to audit the contractor’s records. The contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.
28. 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—
(1) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
(2) Make progress, so as to ‘endanger performance of this contract (but see subparagraph (a)(2)(b) below); or
(3) Perform any of the other provisions of this contract (but see subparagraph (a)(2)(b) below).

(b) The Laboratory’s right to terminate this contract under subdivisions (1)(a) and (1)(b) above, may be exercised if the contractor does not cure such failure within 10 days (or more if authorized by writing to the Laboratory) after receipt of the notice from the contractor specifying the failure, or within such extended periods as the Laboratory may designate.

(c) If the Laboratory terminates this contract in whole or in part, it may acquire, under the terms and conditions specified by the Laboratory, any completed supplies or services similar to those terminated, and the contractor will be liable to the Laboratory for any excess costs for those supplies or services. However, the contractor shall continue the work not terminated.

(d) 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) 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) other unusually severe weather. In each instance the contractor shall be entitled to perform under control and without the fault or negligence of the contractor.

(e) If the contractor’s default 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 subcontractor, and without the fault or negligence of either, the contractor shall not be liable for any excess costs for failure to perform, unless the subcontractor’s supplies or services were obtainable from other sources in sufficient time for the contractor to meet the required delivery schedule.

(f) If this contract is terminated for default, the Laboratory may require the contractor to transfer title and deliver to the Laboratory, as directed by the Laboratory, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as “manufacturing materials”) in this clause) that the contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Laboratory, the contractor shall also protect and preserve property in its possession in which the Laboratory or the Government has an interest.

(g) The Laboratory shall pay the contract price for completed supplies delivered and accepted. The contractor shall bill the Laboratory solely on the basis of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. The Laboratory may withhold from these amounts any sum the Laboratory determines to be necessary to protect the Laboratory against loss because of the contractor’s liens or claims of former lien holders.

(h) If, after notification, it is determined that the contractor was not in default or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Laboratory.

(i) The 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.

29. ANTI-KICKBACK PROCEDURES (MAY 2014)

(a) Definition.

(1) “Kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, value of thing, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a contractor relating to any subcontract.

(2) “Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

(b) “Prime contractor” means a contractor who has entered into a contract with the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

(c) “Prime Contractor” as used in this clause, means a prime contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract or subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

(d) “Local government” means a unit of government in a State and, if chartered, established, or otherwise created, in any Indian Tribe, as defined by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

(e) “Officer or employee of an agency” includes the following individuals who are employed by an agency of the Federal Government:

(1) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act (5 U.S.C. 551). If a Federal advisory committee is established, the Government shall provide written notice of its establishment to all Federal advisory committees.

(2) Making any Federal grant.

30. 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 any proclamation, Executive order, or statute administered by OFAC, or if OFAC’s implementing regulations, countercrimes (CFR) regulations, or other OFAC regulations, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited. In addition, if a contractor is a U.S. person (as defined in the OFAC’s regulations), OFAC’s website at http://www.treas.gov/offices/enforcement/ofac/. More information about these restrictions, as well as updates, is available in the OFAC’s regulations at 31 CFR chapter V and on the OFAC’s website at http://www.treas.gov/offices/enforcement/ofac/. The Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC’s implementing regulations, countercrimes (CFR) regulations, or other OFAC regulations, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

31. RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2009) – 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 item (including computer software) made or furnished by the subcontractor under this contract or any extension.

(b) The Contractor may enter into an agreement with a subcontractor if the agreement and the performance of the agreement do not preclude the Contractor from meeting the requirements of this clause.

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

32. PAYMENTS (FEB 2004)

(a) Payment shall be made for items received by the Laboratory that have been delivered to the delivery destinations set forth in this contract. Upon submission of proper invoices or vouchers, the Laboratory shall make payment at the prices stipulated in this contract by check, electronic funds transfer, or wire transfer, unless the Laboratory determines that any discount offered for early payment, shall be computed from the date the invoice is received at the Laboratory. If the payment is not discounted, and is made by check, it shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(b) (1) Property shall mean all tangible personal property as identified in Argonne Form PD-150, Control of Government Property – Contractor Requirements, in the section entitled, “IDENTIFICATION” that has been purchased by the contractor in the performance of the contract for which cost the contractor is entitled to be reimbursed as a direct cost of this contract or for use of the contractor, and for which the contractor has included the cost for such property in the fixed price charged to the Laboratory.

(2) All IND Vie INDO Subcontracts with contractors who meet Argonne Form PO-150, Control of Government Property – Contractor Requirements, shall be accompanied by the completed form entitled, Argonne National Laboratory Subcontract Property Management Government Property Acquisitions Record Certificate.

THE LABORATORY WILL NOT ISSUE PAYMENT UNLESS A COMPLETED FORM ANL-661 IS INCLUDED WITH ALL ITEMS REGARDLESS OF PROPERTY IS BEING ISSUED ON A PARTICULAR INVOICE OR NOT.

(c) Submission of Transportation Documents

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

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

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

(2) Contractors shall submit for audit those bills of lading with freight shipment charges exceeding $200. Bills under $200 shall be retained on-site by the Contractor and made available for on-site audits.

(3) Contractors shall submit the above referenced transportation documents with Contractor’s invoice to - Argonne National Laboratory, 9700 South Cass Avenue, Accounts Payable Building 201, Lemont, IL 60439

33. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

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

(a) Definitions. As used in this clause—

(1) “Agency” means an “executive agency” as defined in Federal Acquisition Regulation (FAR) 2.101. “Cleared Federal action” means any of the following actions:

(a) Awarding any Federal contract.

(b) Making any Federal loan.

(c) Entering into any cooperative agreement.

(d) Entering into any contract or agreement.

(e) Extending, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

(f) “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 Alaskan Natives.

(2) The Government means any agency of the Federal Government (as defined in 21 U.S.C. 1362(c)(4)) that is involved in or affected by any transaction to which paragraph (a) applies. The Government includes any agency, department, or a combination thereof.

Local “local government” means a unit of government in a State and, if chartered, established, or otherwise created, in any Indian Tribe, as defined by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

“Indigenous Attorneys” or attorneys employed by Indigenous Attorneys are any attorney, or combination of attorneys, who, to the Government, as defined in section 202, Title 18, United States Code.

(3) “Member of Congress” means any member of Congress, or an employee of a Member of Congress in connection with any committee of the House of Representatives or the Senate, or any committee of such a committee.

(4) “Member of Congress” means any member of the Indian Tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans...
from an agency, but with only respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Reasonable compensation means, with respect to a regularly employed officer or employee of the Federal Government, such officer or employee's pay in an amount that is consistent with the amount normally paid for such services in the private sector.

Reasonable defense costs means costs reasonably incurred in connection with a claim by or on behalf of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Regulator's judgment with respect to an officer or employee of a Member of Congress in connection with the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

Exceptions. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) Agency and legislative liaison by Contractor employees.

(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in pay, or other disciplinary action.

(1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a covered Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Personal officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(2) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint.

(3) The 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 and contractor employees shall not:

(1) By threats of serious harm to, or physical restraint against, that person or another person;

(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.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $150,000.

34. BANKRUPTCY (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Government shall have the option of accepting the assignment of any or all of the Government's right, title, and interest in and to the contract and the contractor's interest in the contract pursuant to this clause.

From tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each contractor or subcontractor shall be retained in the subcontract file of the awarding Contractor.

(3) The abuse or threatened abuse of the legal process.

Coercion means—

(1) Threats of serious harm to or physical restraint against any person;

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

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $150,000.

35. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

(1) Threats of serious harm 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; or

(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 the pledge by the debtor of his or her personal services or of those under his or her control as a security for debts, as the value of the services of the debtor as a means of repayment of the debt or the length and nature of those services are not respectively limited and defined.

"Employee" means any person engaged in the performance of any work under the contract who has other than a minimal impact or involvement in contract performance.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of the Federal Government, such officer or employee's pay in an amount that is consistent with the amount normally paid for such services in the private sector.

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

Appplies To Contracts That Exceed $30,000 in Value

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

(1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding $150,000 under this contract.

(2) A copy of each subcontract disclosure form (but not certifications) shall be forwarded from tier to tier unrelated by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each contractor or subcontractor shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $150,000.
(iii) 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.

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

(b) The contractor shall maintain the confidentiality of the information and of the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into a subcontract in excess of $30,000, unless proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed $200,000, other than a subcontract for a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, its principals, or is or has been, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Laboratory Procurement Officer, in writing, before entering into a subcontract with a party not included in the Contractor's subcontract providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment in the System for Award Management (SAM). The Notice must include the following:

1. The name of the subcontractor or individual.
2. The contractor's knowledge of the reasons for the subcontractor being in the SAM.
3. The compelling reason(s) for doing business with the subcontractor notwithstanding its status in the SAM.

(e) The Contractor shall establish procedures to ensure that it fully protects the Laboratory's interests in such dealings and to minimize any use of a subcontractor in violation of the requirements of this clause.

(f) The Contractor shall submit a report to the Laboratory on the result of its investigation, including the identity of the subjects of allegations and informants should be limited to those with a serious interest in the allegations of research misconduct and applicable law and regulation, knowledge about their rights are protected and that the mere filing of an allegation of research misconduct does not give rise to an appeal for purposes of 10 CFR part 733 for performing an inquiry, possible mediation, and selecting technical standards for use to support assigned DOE missions and technology transfers to foreign nationals.

37. 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 or investigations into allegations of research misconduct in accordance with the requirements of this clause.

(b) Unless the contractor's written request and, if requested, a written report by the sending party are received by the Laboratory within two working days of receipt, the contractor shall conduct an initial inquiry into any allegation of research misconduct. If the contractor determines that there is sufficient evidence to proceed to an investigation, it shall notify the contractor in writing and, unless otherwise instructed, undertake an inquiry into the allegation of research misconduct and an identification of appropriate remedies or a determination that no further action is warranted.

(c) The contractor shall conduct an investigation of research misconduct,.Requires a decision whether to determine the adequacy of the level of the evidence submitted to support the allegation or developed in response to an inquiry and an notice of any findings of research misconduct.

(d) Written inquiries are necessary to ensure that the public. The contractor is required to select the adjudicating official's decision and notification of any corrective action taken or recommended to be taken to the Laboratory for its written decision. Any work identified in the article entitled, "Applicable Documentation", which can be reasonably ascertained by the Laboratory harmless from any liability that may arise for any such violation.
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.

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) fasteners; hoisting, rigging, and lifting equipment; cranes; hoists; valves; pipe and fittings; electrical equipment and devices; plates, 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.
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:

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GRADE A325 FASTENERS (BENNIGHT DENVER TARGET ONLY) WITH THE FOLLOWING HEADMARKS:

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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