

**APPENDIX A**  
**ARGONNE TERMS AND CONDITIONS**  
**FOR FOREIGN CONCERNS – PERFORMANCE OUTSIDE THE U.S.**

*(For Commercial Items)*

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1. **ACCEPTANCE (OCT 1999)**
- Acceptance of this Purchase Order or contract (hereinafter called the "contract") must be in accordance with and strictly limited to these Terms and Conditions. An attempted acknowledgment or acceptance which contains provisions conflicting or additional to these Terms and Conditions or which varies any term or condition shall have no force or effect. Performance by the contractor without an effective acknowledgment shall be deemed to be performance in accordance with the Terms and Conditions of this contract.
2. **INSPECTION (OCT 1999)**
- The contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Laboratory reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Laboratory may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Laboratory must exercise its post acceptance rights (a) within a reasonable time after the defect was discovered or should have been discovered; and (b) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
3. **ASSIGNMENT (OCT 1999)**
- Neither this contract nor any interest therein nor claim there under shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory; provided, that the contractor or its assignee's rights to be paid amounts due as a result of performance of this contract may be assigned to a bank, trust company or other financing institution, including any Federal lending institution. The Laboratory may assign this contract to a successor operator of the Laboratory.
4. **CHANGES (OCT 1999)**
- Changes in the Terms and Conditions of this contract may be made only by written agreement of the parties.
5. **EXCUSABLE DELAYS (OCT 1999)**
- The contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Laboratory, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The contractor shall notify the Laboratory in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Laboratory of the cessation of such occurrence.
6. **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 vouchers, the Laboratory shall make payment at the prices stipulated in this contract by check, electronic funds, or as the parties may otherwise agree. In connection with any discount offered for early payment, time shall be computed from the date the invoice is received at the Laboratory. For the purpose of computing the discount earned, payment 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) Property.
- (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 item of cost under this contract or for which the contractor has included the cost for such property in the fixed price charged to the Laboratory.
- (2) All INVOICES submitted under contracts which contain Argonne Form PD-150, Control of Government Property - Contractor Requirements, shall be accompanied by the completed form entitled, Argonne National Laboratory Subcontract Property Management Government Property Acquisition Record, ANL-661.
- THE LABORATORY WILL NOT ISSUE PAYMENT UNLESS A COMPLETED FORM ANL-661 IS INCLUDED WITH ALL INVOICES (REGARDLESS IF PROPERTY IS BEING INVOICED 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 paid -
- (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 only 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
7. **BANKRUPTCY (JUL 1995)**
- In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail, written notification of the bankruptcy to the Laboratory Procurement Official responsible for administering the contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for all Laboratory contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.
8. **RISK OF LOSS (OCT 1999)**
- Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the contractor until, and shall pass to the Laboratory upon:
- (a) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (b) Delivery of the supplies to the Laboratory at the destination specified in the contract, if transportation is f.o.b. destination.
9. **TAXES-FOREIGN FIXED-PRICE CONTRACTS (JUN 2003)**
- (a) To the extent that this contract provides for furnishing supplies or performing services outside the United States and its outlying areas, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.
- (b) *Definitions.* As used in this clause—
- "Contract date" means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.
- "Country concerned" means any country, other than the United States and its outlying areas, in which expenditures under this contract are made.
- "Tax" and "taxes" include fees and charges for doing business that are levied by the government of the country concerned or by its political subdivisions.
- "All applicable taxes and duties" means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract, pursuant to written ruling or regulation in effect on the contract date.
- "After-imposed tax" means any new or increased tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, other than excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.
- "After-relieved tax" means any amount of tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund, as the result of legislative, judicial, or administrative action taking effect after the contract date.
- "Excepted tax" means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the U.S. Government.
- (c) Unless otherwise provided in this contract, the contract price includes all applicable taxes and duties, except taxes and duties that the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.
- (d) The contract price shall be increased 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 if 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.
- (e) The contract price shall be decreased by the amount of any after-relieved tax, including any interest or penalty. The Government of the United States shall be entitled to interest received 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 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 excepted tax, that was included in the contract and that the Contractor is required to pay or bear, or does not obtain a refund of, 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.
- (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 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.
- (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.
- (j) The Contractor shall promptly notify the Contracting Officer of all matters relating to taxes or duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.
10. **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.
11. **TERMINATION FOR THE LABORATORY'S CONVENIENCE (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 stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the contractor shall be paid a percentage of 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 system, 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.
12. **TERMINATION FOR CAUSE (OCT 1999)**
- The Laboratory may terminate this contract, or any part hereof, for cause in the event of any material default by the contractor, or if the contractor fails to comply with any contract terms and conditions, or fails to provide the Laboratory, upon request, with adequate assurances of future performance. In the event of termination for cause, the Laboratory shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the Laboratory for any and all rights and remedies provided by law. If it is determined that the Laboratory improperly terminated this contract for default, such termination shall be deemed a termination for convenience.
13. **TITLE (OCT 1999)**
- Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Laboratory takes physical possession.
14. **WARRANTY OF SUPPLIES (DEC 2011)**
- The contractor warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- Energy Consuming Products
- When the contract requires the specification or delivery of energy consuming products for use in Federal facility, the contractor will specify or deliver EnergyStar<sup>®</sup> qualified products or products

conforming to the Federal Energy Management Program's (FEMP) Energy Efficiency Requirements, which may be applicable, provided products with such a designation are available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for EnergyStar® at:

<http://www.energystar.gov/products>  
[http://www.eere.energy.gov/femp/procurement/eep\\_requirements.cfm](http://www.eere.energy.gov/femp/procurement/eep_requirements.cfm).

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, (<http://www.epa.gov/greeningepa/practices/eo13423.htm>) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (<http://www.archives.gov/federal-register/executive-orders/disposition.html>). The Contractor shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, Acquisition Considerations Regarding Federal Leadership in Environmental, Energy, and Economic Performance. This guide includes information concerning recycled content products, bio-based products, energy efficient products, water efficient products, alternative fuels and vehicles, non ozone depleting substances and other environmentally preferable products and services. This guide is available on the Internet at: <http://management.energy.gov/documents/AcqGuide23pt0Rev1.pdf>

#### 15. WARRANTY OF SERVICES (MAY 2001)

- (a) Definitions. "Acceptance," as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.
- (b) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Laboratory Procurement Official shall give written notice of any defect or nonconformance to the Contractor...[Laboratory Procurement Official shall insert the specific period of time in which notice shall be given to the Contractor; e.g., "within 30 days from the date of acceptance by the Laboratory," within 1000 hours of use by the Laboratory;" or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time]. This notice shall state either (1) that the Contractor shall correct or reperform any defective or nonconforming services, or (2) that the Laboratory does not require correction or reperformance.
- (c) If the Contractor is required to correct or reperform, it shall be at no cost to the Laboratory and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Laboratory Procurement Official may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Laboratory thereby, or make an equitable adjustment in the contract price.
- (d) If the Laboratory does not require correction or reperformance, the Laboratory Procurement Official shall make an equitable adjustment in the contract price.

#### 16. LIMITATION OF LIABILITY (OCT 1999)

Except as otherwise provided by an express or implied warranty, the contractor will not be liable to the Laboratory for consequential damages resulting from any defect or deficiencies in accepted items.

#### 17. CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (OCT 2010)

The contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

- (i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), 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) [Reserved]
- (viii) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)). \_\_ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).
- (ix) [Reserved]
- (x) [Reserved]
- (xi) [Reserved]
- (xii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
- (xiii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (February 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

#### 18. 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, items containing either
  - (1) Radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or
  - (2) Other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries.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. 9000-0107).  
\* The Laboratory Procurement Representative shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(d).
- (b) If there 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 --
  - (1) Be submitted in writing;
  - (2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and
  - (3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

- (c) 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 the latest revision of MIL-STD 129 in effect on the date of the contract.
- (d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

#### 19. ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

- (a) Definition. As used in this clause--  
"Energy-efficient product"--
  - (1) Means a product that--
    - (i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or
    - (ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.
  - (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. 8259b).
- (b) 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; or
  - (4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.
- (c) 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.
- (d) Information about these products is available for--
  - (1) ENERGY STAR® at <http://www.energystar.gov/products>; and
  - (2) FEMP at [http://www1.eere.energy.gov/femp/procurement/eep\\_requirements.html](http://www1.eere.energy.gov/femp/procurement/eep_requirements.html).

#### 20. AUTHORIZATION AND CONSENT (DEC 2002)

The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent

- (1) embodied in the structure or composition of any article the delivery of which is accepted by the Laboratory or the Government under this contract or
- (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with
  - (i) specifications or written provisions forming a part of this contract or
  - (ii) specific written instructions given by the Laboratory or the Government directing the manner of performance.

The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

#### 21. PATENT INDEMNITY - SUPPLIES AND SERVICES (APR 1984)

- (a) The Contractor shall indemnify the Laboratory, the Government and their officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government or the Laboratory of such supplies or construction work.
- (b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government (with notice to the Laboratory) of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to:
  - (i) An infringement resulting from compliance with specific written instructions of the Laboratory or the Government directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;
  - (ii) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or
  - (iii) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

#### 22. REFUND OF ROYALTIES (AUG 2002)

- (a) During performance of this Contract, if any royalties are proposed to be charged to the Laboratory or the Government as costs under this Contract, the Contractor agrees to submit for approval of the Government through the Laboratory, prior to the execution of any license, the following information relating to each separate item of royalty:
  - (1) Name and address of licensor;
  - (2) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;
  - (3) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;
  - (4) Percentage or dollar rate of royalty per unit;
  - (5) Unit price of contract item;
  - (6) Number of units;
  - (7) Total dollar amount of royalties; and
  - (8) A copy of the proposed license agreement.
- (b) If specifically requested by the Government through the Laboratory, the Contractor shall furnish a copy of any license agreement entered into prior to the effective date of this clause and an identification of applicable claims of specific patents or other basis upon which royalties are payable.
- (c) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents and patent applications that are used in the performance of this contract or any subcontract hereunder.
- (d) The Contractor shall furnish to the Government through the Laboratory, annually upon request, a statement of royalties paid or required to be paid in connection with performing this Contract and subcontracts hereunder.
- (e) For royalty payments under licenses entered into after the effective date of this Contract, costs incurred for royalties proposed under this paragraph shall be allowable only to the extent that such royalties are approved by the Government. If the Government determines that existing or proposed royalty payments are inappropriate, any payments subsequent to such determination shall be allowable only to the extent approved by the Government.

- (f) Regardless of prior Government or Laboratory approval of any individual payments or royalties, the Government may contest at any time the enforceability, validity, scope of, or title to a patent for which the Contractor makes a royalty or other payment.
- (g) If at any time within 3 years after final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of any royalties to which this clause applies, the Contractor shall promptly notify the Government through the Laboratory of that fact and shall promptly reimburse the Government for any refunds received or royalties paid after having received notice of such relief.
- (h) The Contractor agrees to include, and require inclusion of, this clause, including this paragraph (h), suitably modified to identify the parties in any subcontract at any tier in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.
- 23. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 2002)**
- The provisions of this clause shall be applicable only if the amount of this contract exceeds \$100,000.
- (a) The Contractor shall report to the Government through the Laboratory, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract which the Contractor has knowledge.
- (b) If any person files a claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Government or the Laboratory, all evidence and information in possession of the Contractor pertaining to such suit or claim. Except where the Contractor has agreed to indemnify the Government or the Laboratory, the Contractor shall furnish such evidence and information at the expense of the Government.
- (c) The Contractor agrees to include, and require inclusion of, this clause suitably modified to identify the parties, in all subcontracts at any tier expected to exceed \$100,000.
- 24. COMBATING TRAFFICKING IN PERSONS (FEB 2009)**
- (a) Definitions. As used in this clause—
- “Coercion” means—
- (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 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;
  - (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 abuse or threatened abuse of law or the 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 enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
  - (2) The 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 to perform such act has not attained 18 years of age; or
  - (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjecting to involuntary servitude, peonage, debt bondage, or slavery.
- “Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.
- (b) Policy. The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not—
- (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—
- (1) Notify its employees of—
    - (i) The United States Government’s zero tolerance policy described in paragraph (b) of this clause; and
    - (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 benefits, or termination of employment; and
  - (2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.
- (d) Notification. The Contractor shall inform the Contracting Officer immediately of—
- (1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and
  - (2) 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 Government determined Contractor non-compliance;
  - (5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
  - (6) Suspension or debarment.
- (f) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.
- (g) Mitigating Factor. The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State’s Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/tip>.
- 25. SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)**
- (a) Definitions. As used in this clause—
- “Commercial item” has the meaning contained 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 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) The Contractor shall insert the following clauses in subcontracts for commercial items:
- (i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), 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) Reserved
  - (viii) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).
  - (ix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.
- (2) While not required, the Contractor may flow down to subcontractors for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.
- (d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.
- 26. EXPORT LICENSE AGREEMENT (AUG 2002)**
- The contractor understands that the materials and/or 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, whether 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 networking is an export. If a foreign national observes equipment or a 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 export control statutes and regulations. Unless authorized by appropriate government license or regulation, contractor agrees not to export directly or indirectly any technology, software or materials provided by the Laboratory. Contractor shall be solely liable for any violation of export control statutes or regulations, and shall indemnify and hold the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.
- 27. EXPORT CONTROL INFORMATION FOR FOREIGN TRAVEL (NOV 2002)**
- The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its employees undertake to further its research and technology development mission is exempted from U.S. export control regulations, the Laboratory must abide by all of the export control laws and regulations to ensure its compliance with export controls.
- An export can occur through a variety of means, including oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting their country are considered exports. You and the Laboratory can be held liable for improperly transferring controlled technologies.
- Prior to transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:
- Fundamental research and information resulting from fundamental research  
Published information and software (publicly available) education information  
Patent applications
- If the information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export.
- To further ensure that you do not run the risk of exporting sensitive information or technology when traveling abroad, keep the following guidelines in mind that without having acquired an export license prior to your trip, presentations and discussions must be limited to only those topics that are not on the DOE Sensitive Subjects List and the Argonne Sensitive Technologies and not related to controlled items or technologies unless they are in the public domain. Further elaboration, or additional details, may be considered an export of technologies and need an export license prior to release.
- 28. 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—
    - (i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);
    - (ii) Sold in substantial quantities in the commercial marketplace; and
    - (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; and
  - (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 Government suspends or debar Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract in excess of \$30,000 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 proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing 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, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- (d) A corporate officer or a designee of the Contractor shall notify the Laboratory Procurement Representative, 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 for information on the Excluded Parties List System). The notice must include the following:
- (1) The name of the subcontractor.
  - (2) The Contractor’s knowledge of the reasons for the subcontractor being in the Excluded Parties List System.
  - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.
  - (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government’s interests when dealing with such subcontractor in view of the specific basis for the party’s debarment, suspension, or proposed debarment.

- (e) Subcontracts. Unless this is a contract for the acquisition of 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.

**29. INTEGRATION CLAUSE (OCT 1999)**

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

**30. 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.

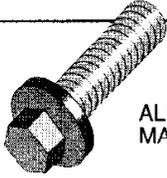
**31. SUSPECT COUNTERFEIT PARTS (DECEMBER 2007)**

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; 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:



MARK	MANUFACTURER
J	Jinn Her (TW)



MARK	MANUFACTURER
KS	Kosaka Kogyo (JP)

GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

MARK	MANUFACTURER	MARK	MANUFACTURER
	A Asahi Mfg. (JP)		KS Kosaka Kogyo (JP)
	NF Nippon Fasteners (JP)		RT Takai Ltd (JP)
	H Hinomoto Metal (JP)		FM Fastener Co of Japan (JP)
	M Minamida Sieybo (JP)		KY Kyoei Mfg (JP)
	MS Minato Kogyo (JP)		J Jinn Her (TW)
	Hollow Triangle Infasco (CA TW JP YU) (Greater than 1/2 inch dia)		
	E Daiei (JP)		UNY Unytite (JP)

GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:



MARK	MANUFACTURER
KS	Kosaka Kogyo (JP)

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

	MARK	MANUFACTURER
Type 1		A325 KS Kosaka Kogyo (JP)
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>**