



University of California
Lawrence Berkeley National Laboratory

GENERAL PROVISIONS FOR COMMERCIAL SUPPLIES AND SERVICES

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CLAUSE 1 - DEFINITIONS

As used herein, the following terms shall have the indicated meanings:

- "Ordered Item" or "item" means the commercial items or commercial components, as defined in FAR 2.101, purchased under the Subcontract.
- "DOE" means the U. S. Department of Energy.
- "Government" means the United States Government.
- "LBNL" means the Lawrence Berkeley National Laboratory.
- "Subcontract" means the subcontract or agreement between the University and the Subcontractor which includes these General Provisions.
- "Subcontractor" means the party who has entered into the Subcontract with the University, as identified in the Subcontract.
- The lower case term "subcontractor" means the Subcontractor's lower-tier subcontractor(s).
- "University" means The Regents of the University of California, acting through the LBNL.

CLAUSE 2 - SCOPE OF SUBCONTRACT

The scope of the Subcontract shall be limited to the acquisition of commercial items, as defined in FAR 2.101, including any services, and shall not include any research, development, or demonstration work.

To the maximum practicable extent the Subcontractor and its subcontractors at all tiers shall incorporate, commercial items or nondevelopmental items, as defined in FAR 2.101, as components of items to be supplied under the Subcontract.

The Subcontract is entered into as a subcontract under the University's Prime Contract No. DE-AC02-05CH11231 with the Government, represented by the DOE, for management and operation of the LBNL and the performance of certain research and development work.

CLAUSE 3 - ACCEPTANCE OF SUBCONTRACT

The Subcontractor's written acceptance of this Subcontract or the performance of any portion of this Subcontract shall constitute the Subcontractor's unqualified acceptance of this Subcontract and all of the Subcontract's terms and conditions. Any alterations made to the documents comprising this Subcontract or any conditions imposed by the Subcontractor upon its written acceptance of this Subcontract are not acceptable and shall constitute a proposal for modification of the Subcontract only and shall have no effect on the validity or the Subcontractor's acceptance of this Subcontract and its terms and conditions, anything to the contrary notwithstanding.

In the event the Subcontractor's business status indicated in the Subcontract or the Subcontractor's proposal is not accurate and current, in accordance with applicable Federal laws, executive orders, and regulations, the University may cancel this Subcontract, without further obligation.

CLAUSE 4 - SHIPMENTS FOR UNIVERSITY'S ACCOUNT

Except as otherwise provided in the Subcontract, all shipments by the Subcontractor for the University's account shall be (1) shipped FOB

Origin or Shipping Point and marked as shipped "For the U. S. Department of Energy;" (2) shipped at the maximum declared value for the lowest applicable transportation rate or classification, and the bill of lading shall so note; and (3) self-insured by the University and not insured by the Subcontractor. Airway bills shall be marked with the appropriate "Government Package" entry. Shipping costs in excess of those per the shipping instructions specified in the Subcontract shall be deducted from the Subcontractor's invoice(s).

CLAUSE 5 - TITLE AND RISK OF LOSS

Unless otherwise provided in the Subcontract, title to the Ordered Items purchased under the Subcontract shall pass directly to the Government upon, and the risk of loss or damage to the Ordered Items shall remain with the Subcontractor until, and shall pass to the University upon:

- If F.O.B. Origin or Shipping Point: Completion of delivery to the carrier and any loading by the Subcontractor.
- If F.O.B. Destination: Completion of delivery and unloading at the delivery point.

However, (1) if the Subcontract requires formal acceptance of any items by the University, then title to such items shall pass directly to the Government upon such formal acceptance; and (2) the title and risk of loss or damage to non-conforming items shall remain with the Subcontractor until acceptance of the items by the University as conforming.

CLAUSE 6 - PACKAGING INSTRUCTIONS

The Subcontractor shall suitably package the items to prevent damage during handling and shipping. Any damage resulting from improper packaging, containerizing, or lack thereof shall be the liability of the Subcontractor, anything to the contrary notwithstanding. The Subcontractor shall indicate the University Subcontract number on each container or package. An itemized packing list shall be affixed to the outermost cover of each container or package.

The University encourages the use of biodegradable packaging materials. The Subcontractor is requested to use every reasonable effort to use biodegradable packaging materials for shipments to the University.

CLAUSE 7 - INSPECTION

The University reserves the right to inspect all and every part of the items under the Subcontract, during and after completion of performance. The University shall not be obligated to inspect the items, and neither the inspection nor the lack of inspection by the University shall relieve the Subcontractor of its responsibility for providing the items in accordance with the terms of the Subcontract. The inspection or use of or payment for an item under the Subcontract, either wholly or in part, shall not be construed as an acceptance.

If any item or any part of it is not in accordance with the terms and conditions of the Subcontract, the University shall notify the Subcontractor that the item is rejected. Thereupon, the Subcontractor shall, at its own expense, take the necessary corrective action. The

University shall reject, or revoke its acceptance of, an item: (1) within a reasonable time after a defect is discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to a defect in the item.

CLAUSE 8 - INVOICES

The Subcontractor shall submit its invoice at the time of final shipment or completion, unless otherwise provided in the Subcontract. The invoices shall reference the Subcontract Number and include a complete description of the items, prices, and ship dates, and the name of the University Procurement Representative. Invoices must be accompanied by transportation receipts, or facsimiles, if transportation is payable as a separate item. Failure to comply with any of these requirements may result in a delay in payment of the invoices.

CLAUSE 9 - PAYMENT

Payment shall be made for delivered items, including completed services, accepted by the University. Unless otherwise provided in the Subcontract, payment shall be due 30 days after receipt of a properly prepared and submitted invoice. Any offered discount may be taken if payment is made within the discount period indicated by the Subcontractor. Payments may be made electronically or by check, at the University's option, and shall be deemed to have been made as of the date the electronic payment was made or the check was mailed.

Information on electronic payments is available at:

http://www.lbl.gov/Workplace/CFO/co/ap/electronic_payments.html

CLAUSE 10 - QUALITY OF SUPPLIES

(a) The items(s), including any materials and supplies furnished by the Subcontractor in performance of any services, shall as a minimum: (1) be new and not of such age or so deteriorated as to impair their usefulness or safety; (2) be as warranted; and (3) not contain any counterfeit or suspect materials, parts, or components. The furnishing of reconditioned items must be specified in the Subcontract or approved by the University Procurement Representative, and shall be warranted the same as new items. Types of materials, parts, and components known to have been counterfeit or suspect include, but are not limited to: electrical components, piping, fittings, flanges, and fasteners.

(b) The University will not accept any Ordered Items, including any services involving the furnishing of materials or supplies, found by the University to not conform to these minimum requirements, notwithstanding any inspection or acceptance of delivery by the University, unless such condition is specifically approved in writing by the University Procurement Representative. The Subcontractor shall promptly replace such items with conforming items at its expense.

CLAUSE 11 - WARRANTY

The Subcontractor warrants that furnished items shall be merchantable and fit for use for the particular purpose described in the Subcontract and services performed will be as specified in the descriptions or specifications of this Subcontract and will be free from defects in workmanship, material, and Subcontractor's design or engineering contributions. The Subcontractor shall correct any warranty nonconformance discovered within one year after acceptance or initial use of the items or services.

Except as otherwise provided by an express warranty, the Subcontractor shall not be liable to the University for any consequential damages resulting from any defect or deficiencies in accepted items or services.

CLAUSE 12 - FORCED, CONVICT, AND INDENTURED LABOR

(a) By signing or accepting this Subcontract, the Subcontractor hereby certifies that no equipment, materials, supplies, or services furnished to the University pursuant to this Subcontract will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

(b) If the Subcontractor subcontracts with the University and knew or should have known that the equipment, materials, supplies, or services furnished to the University were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, any or all of the following sanctions may be imposed:

(1) The Subcontract may be voided at the option of the University.

(2) The Subcontractor may be removed from consideration for University contracts or subcontracts for a period not to exceed 360 days.

CLAUSE 13 - LAWS AND REGULATIONS

The Subcontractor and its employees and subcontractors shall at all times comply with, all applicable state and federal laws, ordinances, statutes, codes, rules, and regulations, including, but not limited to, those relating to wages, hours, employment discrimination, immigration, and safety (including OSHA).

CLAUSE 14 - CHANGES

The University may direct the Subcontractor to make changes within the general scope of this Subcontract to (1) any Ordered Item(s) to be manufactured or assembled specifically for the University, or the method of shipment, packaging, or place of delivery; and (2) any services to be performed or their time and place of performance.

If any such change causes an increase or decrease in the cost of, or the time required for, performance of the Subcontract, the University Procurement Representative shall make an agreed-upon equitable adjustment in the Subcontract price, delivery schedule, or both, by a written modification to the Subcontract. Any price adjustment shall be consistent with FAR 31.2, *Contracts with Commercial Organizations*, (48 CFR 31.2), as supplemented by DEAR 931.2 (48 CFR 931.2), in effect as of the date of award of this Subcontract. The University reserves the right to review the Subcontractor's records to verify that a price adjustment conforms to this requirement.

The Subcontractor shall submit any claim for an equitable adjustment within 30 days from receipt of a directed change, or by such other time as the University Procurement Representative may permit.

Changes to the terms and conditions of the Subcontract may be made only by the written agreement of the parties.

CLAUSE 15 - TAX ASSESSMENT NOTIFICATION

The Subcontractor agrees to notify the University of any tax, fee or charge levied or purported to be levied on or collected from the Subcontractor in connection with this Subcontract for which an exemption is claimed by the University or concerning which the Subcontractor has reason to believe or the University has advised the Subcontractor that such tax, fee, or charge is or may be inapplicable or invalid. The Subcontractor further agrees to refrain from paying any such tax, fee, or charge, unless otherwise authorized by the University, and to take such steps as may be required by the University to cause such tax, fee, or charge to be paid under protest and, if so directed by the University, to cause to be assigned to the University or its designee any and all rights to the abatement or refund of any such tax, fee, or charge, and to permit the University or its designee to join with the Subcontractor in any proceedings for the recovery thereof or to sue for recovery in the Subcontractor's name.

CLAUSE 16 - ASSIGNMENTS

This Subcontract is assignable by the University to the Government or its designee(s).

Except as to assignment of payment due hereunder, the Subcontractor shall have no right, power or authority to sell, mortgage, transfer or assign this Subcontract, any portion hereof, any interest herein or any claim hereunder, nor allow or permit any other party or parties to have any interest in or use any part of the rights or obligations granted hereunder for any purpose whatsoever without the prior written consent of the University.

CLAUSE 17 - DISPUTES

Except as otherwise provided in the Subcontract, any claim under the Subcontract not resolved in the ordinary course of business shall be referred in writing to the University Procurement Representative and the executive management representative of the Subcontractor with the authority to settle the dispute. The representatives of the parties, or their designees, shall then attempt in good faith to resolve the dispute by negotiations. All negotiations shall be confidential and shall be treated as compromise and settlement negotiations, for the purposes of application of rules of evidence. Pending resolution of the dispute, the Subcontractor shall proceed diligently with the performance of the Subcontract, in accordance with its terms and conditions.

Any unresolved dispute with a value under \$100,000 relating to the Subcontract (whether contract, tort, or both), or the breach of the Subcontract shall be arbitrated by and in accordance with the then existing commercial arbitration rules of the American Arbitration Association (AAA). Judgment on the award rendered by the arbitrator may be entered in any court in Alameda County, CA having jurisdiction.

The following modifications are made to the AAA rules: (1) the arbitrator shall be neutral and appointed by the AAA.; (2) the location for all arbitrations shall be in Alameda County; and (3) each party to the arbitration shall pay its pro rata share of the arbitrator's fees not including counsel fees or witness fees or other expenses incurred by a party for its own benefit.

The parties shall consider the use of a form of alternate disputes resolution (ADR), including non-binding mediation and binding arbitration, for any unresolved dispute with a value of \$100,000 or more. In the event that ADR fails or is not used for such disputes, the parties may thereafter pursue any remedy they may have, at law or in equity, in a court of competent jurisdiction, in accordance with the provision of these General Provisions entitled *GOVERNING LAW AND VENUE*.

CLAUSE 18 - BANKRUPTCY

If the Subcontractor enters into any proceeding related to bankruptcy, it shall give written notice to the University Procurement Representative via certified mail within five days of initiation of the proceeding. The notification shall include the date on which the proceeding was filed, the identity and location of the court, and a listing of the LBNL purchase orders, subcontracts, or agreements affected.

CLAUSE 19 - EXCUSABLE DELAYS

The Subcontractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Subcontractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, flood, epidemics quarantine, restrictions, strikes, unusually severe weather, and delays of common carriers. The Subcontractor shall notify the University in writing as soon as reasonably possible after 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 the University written notice of the cessation of such occurrence.

CLAUSE 20 - TERMINATION

The Subcontract may be terminated by the University at any time, at will, with or without cause, with or without the giving of any reasons, and by giving notice to the Subcontractor at least 15 calendar days before the termination is to be effective.

In the event of a termination by the University, the Subcontractor shall be paid, subject to the terms and conditions of the Subcontract, a percentage of the Subcontract price reflecting the percentage of work performed prior to the notice of termination, plus any reasonable direct charges resulting from the termination which the Subcontractor can substantiate to the satisfaction of the University, using the Subcontractor's standard record keeping system; provided, however, that the total thereof shall not exceed the Subcontract price. The Subcontractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

If a default occurs under the Subcontract, and if within 30 calendar days after the non-defaulting party has given the defaulting party notice of the event of default the defaulting party has not cured the default or, if the default cannot be reasonably cured within such time period, if the defaulting party has not commenced the cure within such time period, diligently continued to pursue such cure, and completed it within 45 days after such notice, the non-defaulting party may, at its option, terminate the Subcontract at any time thereafter upon written notice to the defaulting party. In the event of a termination for default, the non-defaulting party may thereafter pursue any remedy they may have, at law or in equity, in a court of competent jurisdiction, in accordance with the provision of these General Provisions entitled *GOVERNING LAW AND VENUE*.

CLAUSE 21 - WORK ON UNIVERSITY OR GOVERNMENT PREMISES

(Applicable to Subcontracts involving Subcontractor's performance at University or Government-owned sites or facilities.)

(a) **Liens.** The Subcontractor agrees that, at any time upon the request of the University, it will submit a sworn statement setting forth the services performed or goods furnished by lower-tier subcontractors and the amount due and to become due to each, and that before the final payment called for hereunder, it will, if requested, submit to the University a complete set of vouchers showing what payments have been made for goods and labor used in connection with the work called for hereunder.

(b) Indemnify, Defend and Hold Harmless.

(1) The Subcontractor shall indemnify, defend and hold harmless the University and the Government from all claims, demands, causes of action, or suits, of whatever nature, arising out of the services, labor, and goods furnished by the Subcontractor or its lower-tier subcontractors under the subcontract, and from all laborers', materialmen's, and mechanics' liens upon the real property upon which the work is located or any other property of the University or the Government; and

(2) Promptly notify the University, in writing, of any such claims, demands, causes of action, or suits brought to its attention. The Subcontractor shall forward with such notification copies of all pertinent papers received by the Subcontractor with respect to any such claims, demands, causes of action, suits, or liens and, at the request of the University, shall do all things and execute and deliver all appropriate documents and assignments in favor of the University or the Government of all the Subcontractor's rights and claims growing out of such asserted claims as will enable the University and the Government to protect their respective interests by litigation or other means. The final payment shall not be made until the Subcontractor, if required, shall deliver to the University a complete release of all liens arising out of the subcontract or receipts in full in lieu thereof, as the University may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and goods for which a lien could be filed; but the Subcontractor may, if any lower-tier subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the University to indemnify it against any claim by lien or other means. If any lien or claim remains unsatisfied after all payments are made, the Subcontractor shall refund to the University all moneys that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorney's fees.

(c) **Cleaning Up.** The Subcontract shall at all times keep University or Government premises and adjoining premises where the work is performed free from accumulations of waste material or rubbish caused by its employees, work of its employees, or work of any of its lower-tier subcontractors; and, at the completion of the work, it shall remove all rubbish from and about the buildings and all of its and its lower-tier subcontractors' tools, scaffolding, and surplus materials and shall leave the work area "broom clean" or its equivalent, unless more exactly specified. In cases of a dispute between the Subcontractor and its lower-tier subcontractors employed on or about the structure or structures upon which the work is to be done, as herein provided, as to responsibility for the removal of the rubbish, or, in case the same is not promptly removed as herein required, the University may remove the rubbish and charge the cost to the Subcontractor.

(d) Employees.

(1) The Subcontractor shall not employ for the work any unfit person or anyone not skilled in the work assigned to the person and shall devote only its best qualified personnel to work under the subcontract. Should the University deem anyone employed on the work incompetent or unfit for duty and so inform the Subcontractor, the Subcontractor shall remove such person from the work under the subcontract, and that person shall not again, without written permission of the University, be assigned to work under the subcontract.

(2) It is understood that if employees of the University perform any acts for the purpose of discharging the responsibility undertaken by the Subcontractor hereunder at the request of the Subcontractor, such employees of the University while performing such acts shall be considered the agents and servants of the Subcontractor subject to the exclusive control of the Subcontractor.

(e) **Insurance.** The Subcontractor shall maintain with reputable companies insurance in amounts required under the Subcontract sufficient to protect the University and the Government from any and all public liability and Workers' Compensation claims at all times during the performance of the subcontract. If requested, the Subcontractor shall supply the University with one copy of certificates of insurance covering policies required hereunder and shall obtain satisfactory evidence of lower-tier subcontractors' compliance with these provisions before their participation in the work. In the absence of more specific direction from the University, the Subcontractor shall maintain additional insurance to the extent consistent with sound business practice.

(f) Environment, Safety, Health, and Fire Protection.

(1) The Subcontractor shall take all reasonable precautions in the performance of the work under this subcontract to protect the health and safety of employees and members of the public; minimize danger from all hazards to life and property; and, to the extent compliance is required,

shall comply with all health, safety, fire protection, and environmental regulations and requirements, including reporting requirements, of the University and DOE. The University shall notify the Subcontractor in writing of any noncompliance with the provisions of this clause and the corrective action to be taken. After receipt of such notice, the Subcontractor shall immediately take corrective action. This corrective action shall include, at a minimum, that the Subcontractor submit a management program and implementation plan to the University for review and approval within 30 days after the date of award of this subcontract. In the event that the Subcontractor fails to comply with said regulations or requirements of the University or the DOE, the University may, without prejudice to any other legal or contractual rights of the University, issue a stop-work order stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of the University. The Subcontractor shall make no claim for an extension of time or for compensation or damages by reason of or in connection with such work stoppage.

(2) The Subcontractor shall take all reasonable measures and precautions at all times to prevent injuries to or the death of any of its employees or any other person who enters upon University or Government premises. Such measures and precautions shall include, but shall not be limited to, all safeguards and warnings necessary to protect workers and others against any conditions on University or Government premises which could be dangerous and to prevent accidents of any kind whenever work is being performed in proximity to any moving or operating machinery, equipment, or facilities, whether such machinery, equipment, or facilities are the property of or are being operated by the Subcontractor, its lower-tier subcontractors, the University, or other persons.

CLAUSE 22 – WORKER SAFETY AND HEALTH

(Applicable when the subcontract involves work to be performed on a University or Government site.)

The Subcontractor and its lower-tier subcontractors performing work at an LBNL worksite are subject to the DOE *Worker Safety and Health Program* regulation of Title 10, Part 851 of the U.S. Code of Federal Regulations (10 CFR 851), and shall perform the work in compliance with the *LBNL Health and Safety Manual*, available at <http://www.lbl.gov/ehs/pub3000/>, which implements the requirements of 10 CFR 851, and in compliance with their Cal/OSHA mandated Injury and Illness Prevention Plan (IIPP) or equivalent and all other LBNL safety procedures and policies communicated to the Subcontractor. The Subcontractor is responsible for ensuring that its lower tier subcontractors comply with these requirements. Violations of these requirements may subject the Subcontractor and its lower tier subcontractors to civil penalties.

The Subcontractor shall ensure that all workers requiring unescorted/unbadged access to an LBNL site complete the *General Employee Radiation Training* (GERT). The on-line training is available at: <http://ehswprod.lbl.gov/EHSTraining/GERT/default.asp>. A GERT booklet is available at the Site Access office in Building 65B and at: http://www.lbl.gov/ehs/html/training_pdf/GERT_PDFONLY.pdf.

CLAUSE 23 - INJURY REPORTING

(Applicable to Subcontractors with ten or more employees working at University or Government-owned sites or facilities [herein called LBNL Site] except for work involving construction and contract labor when Subcontractor's employees receive specific task assignments from University employees.)

(a) Subcontractor shall report all injuries to Subcontractor's employees that qualify for inclusion on Subcontractor's Cal-OSHA log to the University within 10 days of occurrence of the injury. Subcontractor shall furnish a copy of its supplemental injury report form (OSHA form 101 or equivalent) for each such case. This report shall be mailed to the LBNL SAAR Office, Health Services, MS 26-109. In addition, serious injuries resulting in death or hospitalization shall be reported by telephone immediately to the LBNL Health Services Receptionist, (510) 486-6266.

(b) Subcontractor shall report to the University the hours worked by Subcontractor's employees on the LBNL Site on a quarterly basis. For each quarter, the hours worked shall be reported in writing no later than the 10th day of the month following the end of the quarter. This report shall be mailed to the LBNL SAAR Office, Health Services, MS 26-109.

CLAUSE 24 - RELEASE OF INFORMATION

The Subcontractor agrees that all information regarding this Subcontract and the name of the University, LBNL, or the Government shall not be used, in any publications, news releases, advertising, speeches, technical papers, photographs and other releases of information, without prior written approval from the University Procurement Representative.

CLAUSE 25 - ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

This Subcontract shall consist of the Subcontract document (including any signature page and schedule of articles), these General Provisions, and any other referenced or incorporated clauses, provisions, and documents, which is the entire agreement between the parties concerning the subject matter hereof and supersedes all prior proposals, representations, negotiations, or agreements, whether written or oral.

Any inconsistencies in the terms and conditions comprising the Subcontract shall be resolved by giving precedence in the following order: (a) the Subcontract document; (b) these General Provisions, including the FAR and DEAR clauses listed in the clause entitled *Clauses Incorporated by Reference*; (c) any specifications; (d) other documents listed in the Subcontract Article entitled *Incorporated Documents*, if any, in the order in which they are listed; and (e) any other referenced or incorporated clauses, provisions, and documents.

CLAUSE 26 - DOCUMENTS OF SUBCONTRACTOR

The provisions of any quotation or other documents of the Subcontractor referenced in or incorporated as a part of this Subcontract are referenced or incorporated only for the purpose of specifying the nature of the materials, supplies, or services ordered, the price therefor, and/or the delivery thereof, and any terms and conditions contained in such referenced or incorporated documents shall not apply.

CLAUSE 27 - GOVERNING LAW AND VENUE

The Subcontract shall be interpreted in accordance with the substantive and procedural laws of the State of California. Any action at law or judicial proceeding instituted by either party pertaining to the Subcontract shall be instituted in the State of California in the Superior Court of Alameda County.

CLAUSE 28 – CLAUSES INCORPORATED BY REFERENCE

The FAR and DEAR clauses listed below, which are located in Chapters 1 and 9, respectively, of Title 48 of the Code of Federal Regulations, are incorporated by this reference as a part of this Subcontract, as prescribed below. As used in the clauses, the term "contract" shall mean this Subcontract; the term "Contractor" shall mean the entity (hereinafter "Subcontractor") who entered into this Subcontract with the University; the term "subcontractor" shall mean the Subcontractor's subcontractor; and the terms "Government" and "Contracting Officer" shall mean the University, except in FAR clauses 52.227-1, 52.227-2, 52.227-3, 52.227-14, and 52.227-19, in which clauses "Government" shall mean the U. S. Government and "Contracting Officer" shall mean the DOE Contracting Officer for Prime Contract DE-AC02-05CH11231 with the University. As used in FAR clause 52.245-1, the terms "Government" and "Contracting Officer" shall mean the University, except with respect to title. As used in DEAR clauses 952.227-9, the term "DOE" shall mean DOE and the University. The Subcontractor shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

THE FOLLOWING CLAUSES APPLY TO ALL SUBCONTRACTS:

DEAR 952.203-70	WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000). Applies if the Subcontract involves any work at a DOE-owned or leased facility.
DEAR 952.204-71	SENSITIVE FOREIGN NATIONS CONTROLS (APR 1994). See list at: www.lbl.gov/ufva .
DEAR 952.204-77	COMPUTER SECURITY (AUG 2006). Applies if the Subcontractor has access to any computers owned, leased or operated by or on behalf of LBNL or DOE.
DEAR 970.5208-1	PRINTING (DEC 2000). Applies if printing is specified under the Subcontract.
FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004). Applies if the Subcontract involves any further subcontracting opportunities.
FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES

FAR 52.222-26	(FEB 1999) EQUAL OPPORTUNITY (MAR 2007) (Note: Download the required EEO Poster at: http://www.dol.gov/esa/ofccp/	specific subcontract is a part; 4. Emergency repair or overhaul work; and 5. Release to a foreign government, or its instrumentalities, if required to serve the interests of the U.S. Government, for information or evaluation or for emergency repair or overhaul work.
FAR 52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)	If delivery of Restricted Computer Software is required, then Alternate III shall apply.
FAR 52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)	FAR 52.227-19
FAR 52.222-50	COMBATING TRAFFICKING IN PERSONS (FEB 2009)	COMMERCIAL COMPUTER SOFTWARE LICENSE (DEC 2007). Applies if the Subcontract involves the acquisition of commercially available computer software.
FAR 52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997), with Alternate I (JUL 1995). Applies if the Subcontract involves the delivery or on-site use of any hazardous materials.	FAR 52.242-15
FAR 52.223-11	OZONE-DEPLETING SUBSTANCES (MAY 2001). Applies if the Subcontract involves the delivery or use of ozone-depleting substances or supplies that may contain or be manufactured with ozone depleting substances	FAR 52.244-2
FAR 52.223-12	REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995). Applies if the Subcontract is for services involving the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances, as a refrigerant, such as air conditioners (including motor vehicles), refrigerators, chillers, or freezers.	FAR 52.244-6
FAR 52.223-15	ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007). Applies if the Subcontract involves furnishing, specifying the use of, or using at an LBNL Site any energy-consuming product listed in the ENERGY STAR® Program or DOE's Federal Energy Management Program (FEMP). For information on listed energy-consuming products see: http://www.energystar.gov/products and http://www1.eere.energy.gov/femp/procurement/leep_requirements.html .	FAR 52.245-1
FAR 52.223-16	IEEE 1680 STANDARD FOR THE ENVIRONMENTAL ASSESSMENT OF PERSONAL COMPUTER PRODUCTS (DEC 2007). Applies if the Subcontract involves the furnishing or use at an LBNL Site of any personal computer products (as defined). Requires personal computer products that are EPEAT Bronze Registered or higher. For information about the standard, see http://www.epeat.net .	FAR 52.247-64
FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)	GOVERNMENT PROPERTY, with Alternate I (JUN 2007) PREFERENCE FOR PRIVATELY OWNED U.S.- FLAG COMMERCIAL VESSELS (FEB 2006). Applies only as described in paragraph (e)(4) of the clause.
DEAR 952.227-9	REFUND OF ROYALTIES (FEB 1995). Applies if "royalties" are paid under the Subcontract by the Subcontractor, or by a subcontractor at any tier.	FAR 52.247-64
FAR 52.227-14	RIGHTS IN DATA-GENERAL (DEC 2007), with Alternate V and DEAR 927.409(d)(3), and substituting paragraph (a) with DEAR 927.409(a), Definitions. Applies if any "data" will be produced, furnished, or acquired under the Subcontract. If delivery of Limited Rights Data is required, then Alternate II shall apply, with the following disclosure purposes added to the end of paragraph (a) of the Limited Rights Notice: 1. Use (except for manufacture) by support services contractors or subcontractors; 2. Evaluation by non-government evaluators; 3. Use (except for manufacture) by other contractors or subcontractors participating in the Government's program of which the	FAR 52.222-41

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$2,500:

- FAR 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (NOV 2007). Applies if the Subcontract is principally for the furnishing of services through the use of "service employees", unless the Subcontract qualifies for an exemption.
- FAR 52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT-PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (SEP 2009). Applies if FAR clause 52.222-41 is applicable and the Subcontract is for multiple years or has an option to renew.
- FAR 52.222-44 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT – PRICE ADJUSTMENT (SEP 2009). Applies if FAR clause 52.222-41 is applicable and FAR clause 52.222-43 does not apply.

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT EXCEEDS \$3,000:

- FAR 52.225-1 BUY AMERICAN ACT–SUPPLIES (FEB 2009)

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT IS FOR \$25,000 OR MORE:

- DEAR 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000). Applies if the Subcontract involves any of the hazardous activities stipulated in 10 CFR 707.2.

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$100,000:

- FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006), with Alternate I (OCT 1995)
- FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997).
- FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

- DEAR 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST (AUG 2009), with Alternate I. Applies if the Subcontract involves advisory and assistance services, as defined in FAR 2.101. The period of ineligibility shall be five years.
- FAR 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIEWNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)
- FAR 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004). Applies in accordance with paragraph (g) of the clause.
Note: Download the required poster at:
<http://www.dol.gov/esa/olms/regs/compliance/posterpg.htm>
- FAR 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)
- FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)
- FAR 52.227-3 PATENT INDEMNITY (APR 1984)
- FAR 52.229-3 FEDERAL, STATE AND LOCAL TAXES (APR 2003)
- FAR 52.246-1 CONTRACTOR INSPECTION REQUIREMENTS (APR 1984)

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT EXCEEDS \$5,000,000:

- FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (DEC 2008). Applies if the Subcontract has a performance period of more than 120 days. All disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the DOE Office of the Inspector General, with a copy to the LBNL DOE Contracting Officer.

END OF GENERAL PROVISIONS