



**UNIVERSITY OF CALIFORNIA
LAWRENCE LIVERMORE NATIONAL LABORATORY**

GENERAL PROVISIONS FOR PERSONAL SERVICE SUBCONTRACTS

INDEX

1. CONFLICT OF INTEREST	8. ASSIGNMENTS
2. CONDUCT OF ASSIGNED PERSONNEL	9. DISPUTES
3. RELEASE OF INFORMATION	10. CLAUSES INCORPORATED BY REFERENCE
4. RESPONSIBILITY FOR TECHNOLOGY EXPORT CONTROL	11. LIMITED RIGHTS DATA DISCLOSURE PURPOSES
5. ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES	12. GOVERNING LAW AND VENUE
6. FORCED, CONVICT, AND INDENTURED LABOR	13. ORDER OF PRECEDENCE
7. RIGHTS TO INVENTIONS	

CLAUSE 1 - CONFLICT OF INTEREST

- A. Subcontractor warrants and represents that to the best of its knowledge there exists no direct or indirect private interest of the Assigned Personnel (including corporate stockholdings or other business agreements and obligations) which is, or may appear to be, incompatible with the Assigned Personnel's services under this Subcontract and that the Assigned Personnel is not concurrently performing work on a full-time basis with any other organization under a cost-type contract with the Department of Energy National Nuclear Security Administration (DOE/NNSA).
- B. The Subcontractor shall require the Assigned Personnel to not make, participate in, or influence any decisions on behalf of the University which directly or indirectly affect the interests of the University or U.S. Government, where the Assigned Personnel has a personal interest (including corporate stockholdings or other business agreements and obligations) which may be incompatible with the interests of the University or U.S. Government, and to refrain from any activities under this Subcontract which could be interpreted as creating a conflict of interest for the Assigned Personnel. The Subcontractor shall promptly notify the University regarding any change in any of the Assigned Personnel's personal interests or in the work under this Subcontract which may create or may appear to be creating a conflict of interest.

CLAUSE 2 - CONDUCT OF ASSIGNED PERSONNEL

The Subcontractor shall ensure that the Assigned Personnel comply with the following standards of conduct:

- A. **Gratuities.** The Assigned Personnel shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties, accept any gratuity or special favor from individuals or organizations with whom the University is doing business, or proposing to do business, in accomplishing the work under this Subcontract.
- B. **Use of Privileged Information.** The Assigned Personnel shall not use for personal gain or make other improper use of privileged information which is acquired in connection with the work under this Subcontract. In this connection, the term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific developments, medical records, personnel or security records of individuals, anticipated materials requirements or pricing actions, possible new sites for DOE/NNSA program operations, and knowledge of selections of contractors or subcontractors in advance of official announcement.

CLAUSE 3 - RELEASE OF INFORMATION

The Subcontractor shall coordinate any planned advertisements, news releases, or other public releases of information concerning this Subcontract, the undertaking, or any data developed hereunder with the University Procurement Representative prior to release. The Subcontractor may acknowledge the University, the LLNL, and Government sponsorship as appropriate, provided the University's Procurement Representative is provided written notice thereof.

CLAUSE 4 - RESPONSIBILITY FOR TECHNOLOGY EXPORT CONTROL

- A. The Subcontractor shall comply with all applicable U.S. export control laws and regulations in the performance of this Subcontract and the distribution and use of resulting work products. Generally, U.S. export control laws and regulations apply to any shipment, transmission, transfer, or exposure to any foreign person, as defined in 22 CFR 120.16, of commodities (equipment, hardware, or material); technology (technical data, information, or assistance); and software (commercial or custom), regardless of where (inside or outside the United States) or how it may occur.
- B. The Subcontractor shall be responsible for obtaining the appropriate licenses or other approvals for exports of commodities, technology, and software, unless an exemption or exception applies. The Subcontractor shall also be responsible for obtaining the appropriate licenses or other approvals before utilizing a foreign person in the performance

of this Subcontract, including instances where the work is to be performed at the LLNL, where the foreign person will have access to any information, technology, or software subject to export control.

- C. The Subcontractor shall be responsible for all regulatory record-keeping requirements associated with the use of licenses and license exemptions and exceptions.
- D. The Subcontractor shall ensure that the provisions of this clause apply to its subcontractors.

CLAUSE 5 - ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES

- A. The Subcontractor shall utilize environmentally preferable products and services, i.e., products and services that have a lesser or reduced effect on human health and the environment, including those with “recovered material,” as defined in 48 CFR 2.101 and 11.301, to the maximum extent possible without conflicting with the technical requirements of the Subcontract or jeopardizing the intended end use of the items or services to be furnished under this Subcontract.
- B. To the extent available, the minimum content standard for high speed copier paper, offset paper forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock used in performing this Subcontract shall be no less than 30 percent post-consumer material.
- C. The Subcontractor shall notify the University Procurement Representative in writing if an “EPA-designated item,” as defined in 48 CFR 23.402, used in performing this Subcontract does not contain at least the percentage of recovered material required by any applicable specification of this Subcontract. Such notice shall include a detailed written justification for such failure, on the basis that the item is not available competitively within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price.

CLAUSE 6 - FORCED, CONVICT, AND INDENTURED LABOR

- A. By signing or accepting this Subcontract, the Subcontractor hereby certifies that no equipment, materials, or supplies 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. Any subcontractor contracting with the University who knew or should have known that the equipment, materials, or supplies furnished to the University were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract or subcontract pursuant to the above, may have any or all of the following sanctions imposed: (1) the contract or subcontract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the University; or (2) the subcontractor may be removed from consideration for University contracts or subcontracts for at least one year.

CLAUSE 7 - RIGHT TO INVENTIONS

(Applicable if the University Provides the Technical Direction for the Services Performed by the Assigned Personnel)

- A. The University shall have the right of election to any and all inventions which are conceived and/or first reduced to practice under this Subcontract. All subject inventions shall be treated as if they arose under the Prime Contract (No. W-7405-ENG-48), and the University shall have the administrative responsibility for reporting such inventions to the DOE/NNSA.
- B. The Subcontractor shall notify the Assigned Personnel of the University's right of election to any and all such inventions and, upon request from the University Procurement Representative, shall obtain a Guest Patent Agreement from the Assigned Personnel, the form and substance of which shall be as set forth in the form attached to this Subcontract or as otherwise stipulated by the University.

CLAUSE 8 - ASSIGNMENTS

- A. This Subcontract may be assigned by the University to the U.S. Government or its designee(s).
- B. Except as to the assignment of payments 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 9 - DISPUTES

- A. Except as otherwise provided in this Subcontract, any non-routine claim under this Subcontract not resolved in the ordinary course of business shall be referred in writing to the representatives of the Procurement & Materiel Department and the executive management 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.

- B. If the parties still have not been able to resolve the dispute, they may thereafter pursue any remedy they may have, at law or in equity, in any court of competent jurisdiction. Pending resolution of the dispute, the Subcontractor shall proceed diligently with the performance of this Subcontract, in accordance with its terms.

CLAUSE 10 - CLAUSES INCORPORATED BY REFERENCE

The FAR and DEAR clauses listed below are incorporated by reference as a part of these GENERAL PROVISIONS with the same force and effect as if they were set forth herein in full text, and shall apply as prescribed below. The referenced FAR and DEAR clauses are respectively located in Title 48, Chapters 1 and 9 of the Code of Federal Regulations. The clause text may be accessed at the following web sites: FAR-<http://www.arnet.gov/far/>; DEAR-<http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Regulation>.

As used in the clauses, the term "contract" shall mean the Subcontract; the term "Contractor" shall mean the entity (hereinafter "Subcontractor") who entered into the 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 & Alt. I, 52.227-2, 52.227-3, 52.227-14, 52.227-17, and 52.227-19, and DEAR clauses 952.227-11, 952.227-13, 952.227-14, and 970.5232-3, in which clauses "Government" shall mean the U. S. Government and "Contracting Officer" shall mean the DOE/NNSA Contracting Officer for Prime Contract W-7405-ENG-48 with the University. As used in DEAR clause 970.5232-3, the term "DOE" shall mean DOE/NNSA and the University.

The modifications of these clause terms are intended to appropriately identify the parties and establish their contractual and administrative reporting relationship, and shall not apply to the extent they would affect the U.S. Government's rights. The Subcontractor shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

APPLICABLE TO ALL SUBCONTRACTS:

- FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
- DEAR 952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000), if the Subcontract involves any work at a University controlled site
- FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
- FAR 52.222-26 EQUAL OPPORTUNITY (APR 2002) (Download the EEO Poster at: <http://www.dol.gov/esa/>; select "Posters" then "Equal Employment Opportunity Act")
- FAR 52.222-29 NOTICE OF VISA DENIAL (FEB 1999)
- FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (OCT 2003)
- FAR 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)
- FAR 52.227-3 PATENT INDEMNITY (APR 1984), if the Subcontract is not for research, development, or demonstration (RD&D) work
- FAR 52.227-14 RIGHTS IN DATA-GENERAL (JUN 1987), with Alternates Ii, Iii, & V and Paragraphs (a) & (d)(3) per DEAR 927.409 (DEC 2000) (See also the *LIMITED RIGHTS DATA DISCLOSURE PURPOSES* clause, below)
- DEAR 952.227-14 RIGHTS IN DATA-GENERAL ALTERNATE VI (FEB 1998), if the Subcontractor is other than a domestic small business or non-profit organization
- FAR 52.227-17 RIGHTS IN DATA-SPECIAL WORKS (JUN 1987), in place of clause FAR 52.227-14, if applicable per FAR 27.409(i).
- FAR 52.232-3 PAYMENTS UNDER PERSONAL SERVICES CONTRACTS (APR 1984)
- FAR 52.243-3 CHANGES – TIME-AND-MATERIALS OR LABOR-HOURS (SEPT 2000)
- FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (APR 2003)
- FAR 52.245-2 GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (JUNE 2003), as modified by DEAR 952.245-2, if any U.S. Government Property is furnished by the University.
- DEAR 952.247-70 FOREIGN TRAVEL (DEC 2000)
- FAR 52.249-12 TERMINATION (PERSONAL SERVICES) (APR 1984)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$2,500:

- FAR 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989), if the Subcontract is principally for the furnishing of services through the use of "service employees"

APPLICABLE IF THE SUBCONTRACT IS FOR \$10,000 OR MORE:

- FAR 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)
- FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
- FAR 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$25,000:

- DEAR 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000), if the Subcontract involves any of the hazardous activities stipulated in 10 CFR 707.2
- FAR 52.246-9 INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984)
- FAR 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JAN 1997), if the Subcontract involves international air transportation

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$100,000:

- FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)
- FAR 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995), excluding paragraph (c)(1)
- FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUNE 2003)
- DEAR 952.209-72 & ALT 1 ORGANIZATIONAL CONFLICT OF INTEREST (JUN 1997), with ALTERNATE I, if the Subcontract involves advisory and assistance services, as defined in FAR 2.101. The period of ineligibility shall be five years
- FAR 52.219-6 & ALT. 1 NOTICE OF TOTAL SMALL-BUSINESS SET-ASIDE (JUN 2003), with ALTERNATE I (OCT 1995), if the Subcontract results from a small business set-aside
- FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)
- FAR 52.219-14 LIMITATIONS ON SUBCONTRACTING (DEC 1996), if the Subcontract results from a small business set-aside
- FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)
- DEAR 970.5232-3 ACCOUNTS, RECORDS, AND INSPECTION (DEC 2000), excluding Paragraph (h)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$500,000:

- FAR 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)
- FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-MODIFICATIONS (OCT 1997)
- DEAR 970.5226-2 WORKFORCE RESTRUCTURING UNDER SECTION 3161 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993 (JUNE 1997)
- DEAR 952.226-74 DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997), if the Subcontract is not for "commercial items"

APPLICABLE IF THE SUBCONTRACT INVOLVES CLASSIFIED INFORMATION OR UNRESTRICTED ACCESS TO "LIMITED" OR "EXCLUSION" SECURITY AREAS:

- DEAR 970.5204-1 COUNTERINTELLIGENCE (DEC 2000)
- DEAR 952.204-2 SECURITY (MAY 2002)
- DEAR 952.204-70 CLASSIFICATION / DECLASSIFICATION (SEP 1997)
- DEAR 952.204-73 FACILITY CLEARANCE (MAY 2002)
- DEAR 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000), if the Subcontract exceeds \$25,000

APPLICABLE IF THE SUBCONTRACT INDICATES IT IS FOR RESEARCH, DEVELOPMENT, OR DEMONSTRATION (RD&D) WORK OR DESIGN WORK INVOLVING NON-STANDARD TYPES OF CONSTRUCTION:

FAR 52.227-1 & ALT. 1	AUTHORIZATION AND CONSENT (JULY 1995), with Alternate I (APR 1984), in place of Clause FAR 52.227-1
FAR 52.227-10	FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (APR 1984), if the Subcontract involves classified information
DEAR 952.227-11	PATENT RIGHTS - RETENTION BY THE CONTRACTOR (SHORT FORM) (FEB 1995), if the Subcontractor is a Domestic Small Business or Non-Profit Organization, as defined at FAR 27.301
DEAR 952.227-13	PATENT RIGHTS - ACQUISITION BY THE GOVERNMENT (SEP 1997), if the Subcontractor is not a Domestic Small Business or Non-Profit Organization, as defined at FAR 27.301
FAR 52.227-16	ADDITIONAL DATA REQUIREMENTS (JUNE 1987)

CLAUSE 11 - LIMITED RIGHTS DATA DISCLOSURE PURPOSES

Generally, delivery of Limited Rights Data or Restricted Computer Software should not be necessary. If any Limited Rights Data will be furnished or delivered by the Subcontractor or a lower-tier subcontractor pursuant to Sub-paragraph (g)(2) of the FAR 52.227-14 *RIGHT IN DATA – GENERAL* clause of the GENERAL PROVISIONS, the University may disclose the data for the following purposes, which disclosure purposes shall be inserted in the Limited Rights Notice to be affixed to the data:

- A. This "Limited Rights Data" may be disclosed for evaluation purposes under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed;
- B. This "Limited Rights Data" may be disclosed to other contractors participating in the Government's program of which this Subcontract is a part for information or use in connection with the work performed under their contracts and under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed; and
- C. This "Limited Rights Data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed.

CLAUSE 12 - 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 (or in the Superior Court of San Joaquin County if the underlying action occurred at LLNL's Site 300).

CLAUSE 13 - ORDER OF PRECEDENCE

Any inconsistencies in the documents comprising this Subcontract shall be resolved by giving precedence in the following order: (a) the Subcontract document; (b) these GENERAL PROVISIONS; (c) other referenced documents, exhibits, and attachments; and (d) any referenced specification or statement of work.

(END OF GENERAL PROVISIONS)