



GENERAL PROVISIONS

Commercial Items – Supplies and Services

For the Pacific Northwest National Laboratory
Operated by Battelle Memorial Institute

Battelle Memorial Institute has executed and is engaged in the performance of Prime Contract DE-AC05-76RL01830 with the United States Department of Energy (DOE), for the management, operation, and maintenance of the Pacific Northwest National Laboratory (PNNL) in Richland, Washington. This contract is entered into in furtherance of the performance of the work provided in the Prime Contract, and is subject to the following general provisions:

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Definitions (*cl. 301 – Oct 2008*)

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| <p>A. The terms "Battelle," "Pacific Northwest National Laboratory," "PNNL," and "Laboratory" mean Battelle Memorial Institute, Pacific Northwest Division.</p> <p>B. The term "Government" means the Government of the United States of America.</p> <p>C. The term "DOE" means the U.S. Department of Energy.</p> | <p>D. "Battelle Contracts Representative" means an employee of Battelle Memorial Institute, Pacific Northwest Division, acting within the limits of a written authorization to execute legally binding commitments on behalf of Battelle.</p> <p>E. Except as otherwise provided in this contract, the term "Contract" includes this purchase order or subcontract and the term "Subcontract" refers to lower-tier subcontracts.</p> |
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Acceptance of Contract Terms and Conditions (cl. 302 - Oct 2008)

The Contractor, by signing this Contract or performing the services and/or delivering the supplies identified herein, agrees to comply with all the terms and conditions and all specifications and other documents that this Contract incorporates by reference or attachment. Battelle hereby objects to any terms and conditions contained in any acknowledgment of this Contract that are different from or in addition to those mentioned in this document. Failure of Battelle to enforce any of the provisions of this Contract shall not be construed as evidence to interpret the requirements of this Contract, nor a waiver of any requirements, nor of the right of Battelle to enforce each and every provision. All rights and obligations shall survive final performance of this Contract.

Order of Precedence (cl. 309 - May 2012)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- A. The Schedule (excluding the specifications or statement of work)
- B. Representations and other instructions
- C. General Provisions
- D. Other documents, exhibits, and attachments
- E. The specifications or statement of work

Assignment (cl. 357 - Jan 2003)

Battelle may assign this contract to the U.S. Department of Energy (DOE) or a designee of DOE. Upon receipt by the Contractor of written notice that DOE or its designee has been assigned this contract, Battelle shall be relieved of all responsibility hereunder, and the Contractor shall thereafter look solely to the assignee for performance of Battelle's obligations.

The Contractor shall not assign this contract or any interest therein, nor claims thereunder without the prior written consent of Battelle or Battelle's assignee. Any assignment, by operation of law or otherwise, without prior written consent of Battelle or Battelle's assignee shall be void.

Pacific Northwest National Laboratory or Battelle Name (cl. 374 - Oct 2008)

The Contractor agrees not to use Pacific Northwest National Laboratory's or Battelle's name or identifying characteristics for advertising, sales promotion, raising of capital, recommending investments or other publicity purposes that implies endorsement by the Pacific Northwest National Laboratory or Battelle without the prior written consent of Battelle. This clause shall survive the termination or expiration of this contract.

Changes (cl. ci-62 - Feb 2007)

Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

Laws, Regulations, DOE Directives, and Indemnification (cl. ci-3121 - Mar 2014)

Contractor shall comply with all applicable federal, state, and local laws and ordinances and all pertinent orders, DOE directives, rules, and regulations (including DOE regulations) and such compliance shall be a material requirement of this Contract. Contractor shall, without additional

cost to Battelle, be responsible for obtaining any necessary licenses and permits.

To the extent authorized by law, Contractor shall indemnify and hold harmless the Government, Battelle, and each of their respective officers, directors, employees, agents, and successors in interest from and against all liability, claims, suits, damages, losses, costs, fines, civil penalties, remediation, or corrective actions, and any associated expense (including, without limitation, costs of: (i) defense; (ii) settlement; (iii) reasonable attorney's fees; and (iv) costs incurred in enforcing this indemnification) arising out of Contractor's non-compliance with any such laws and regulations.

Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the contractor's compliance with the requirements.

Taxes (cl. 354b - Oct 2018)

- A. Unless this contract specifies otherwise, the contract price shall not include any duties, taxes, or fees for which Battelle has furnished a valid exemption certificate or other evidence of exemption. The contract price may include applicable sales and use taxes being collected to remit directly to a state taxing authority, but only when separately stated on Contractor's invoice. Contractor is responsible for remitting taxes collected from Battelle to the relevant tax authority.
- B. Battelle is currently exempt from sales tax on most items delivered to, and most taxable services performed in CO, CT, DC, FL, IN, KY, ME, MD, MA, MI, MO, NJ, NY, OH, RI, TN, TX, UT, VT, WV and WI. , Battelle is currently exempt only for purchase of tangible personal property and not purchased services in NM and VA; and in UT, Battelle can issue an exemption certificate only if the total invoice exceeds USD \$1,000. Contractor should note that sales tax on exempt purchase orders will not be paid.
- C. If this contract contains items to be shipped to the state of Washington or taxable services to be performed in the state of Washington, the state of Washington Direct Pay Permit for sales and use tax prevails unless otherwise specified. If the Direct Pay Permit is used, Battelle will be responsible for remitting any Washington sales and use tax applicable to this purchase directly to the state taxing authority.

Invoices and Payment (cl. 350 - Oct 2018)

Contractor shall submit its invoice at the time of final shipment or final completion of the services, unless otherwise provided in the Contract Schedule or Purchase Order. Invoices shall reference the Battelle Purchase Order number, identify any separately payable taxes, and include a complete description of the ordered items, prices, ship dates, location of any services and other documentation as required by the Contract Schedule or Purchase Order. Invoices should be sent electronically to ap.invoices@pnnl.gov. Failure to comply with any of these requirements may result in a delay in payment of the invoices.

Payment shall be made for items delivered to the specified delivery destination, and for services completed and accepted by Battelle. Unless otherwise provided in the

Contract Schedule or Purchase Order, the terms of payment shall be 30 days after receipt of the Contractor's properly submitted invoice. Any offered discount shall be taken if payment is made within the discount period indicated by the Contractor. Payments may be made by check or by electronic funds transfer, at the option of Battelle. Payment shall be deemed to have been made as of the date of mailing or the date on which an electronic funds transfer was made.

Title (cl. ci-70 – Sept 2007)

Unless specified elsewhere in this Contract, title to items furnished under this Contract shall pass to the Government upon acceptance by Battelle, regardless of when or where Battelle takes physical possession.

Risk of Loss (cl. ci-63 - Feb 2007)

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 Battelle upon:

- A. Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- B. Delivery of the supplies to Battelle at the destination specified in the contract, if transportation is f.o.b. destination.

Inspection/Acceptance (cl. ci-64 - Feb 2007)

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. Battelle reserves the right to inspect or test any supplies or services that have been tendered for acceptance. Battelle may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not feasible, Battelle may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. Battelle must exercise its post-acceptance rights—(1) within a reasonable time after the defect was 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 the defect in the item.

Warranty (cl. ci-65 – Sept 2009)

Unless otherwise specified in the Contract Schedule, the Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract and that services performed will be as specified in the descriptions and specifications of this Contract and free from defects in workmanship, material, and Contractor's design or engineering contributions. The Contractor shall correct any nonconformance with this warranty discovered within one year after acceptance or initial use of the supplies or services.

Limitation of Liability (cl. ci-66 – Feb 2007)

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

Disputes (cl. 331 - Nov 2014)

Except as otherwise provided or agreed, any dispute relating to this contract which is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction upon filing of a legal action by the aggrieved party. It is further agreed by the Contractor that litigation shall be limited and confined exclusively to Federal District Court, with venue in the U.S. District Court for Eastern Washington, located in Richland, Washington. In the event the requirements for jurisdiction in Federal District Court are not present, such litigation shall be brought in Benton County Superior Court, located in Kennewick, Washington. Resolution of any substantive issue of law shall be determined in accordance with the body of applicable Federal procurement law. If there is no applicable Federal procurement law, the law of the State of Washington shall apply in the determination of such issues. During the pendency of any dispute, the Contractor shall proceed diligently with the performance of the contract and in accordance with the direction of Battelle.

Classified Inventions (cl. 372 – Aug 2002)

Applies to contracts that cover or are likely to cover subject matter classified for reasons of security.

- A. Approval for filing a foreign patent application. The Contractor shall not file, or cause to be filed, an application or registration for a patent disclosing a subject invention related to classified subject matter in any country other than the United States without first obtaining the written approval of the DOE Contracting Officer.
- B. Transmission of classified subject matter. If in accordance with this clause the Contractor files a patent application in the United States disclosing a subject invention that is classified for reasons of security, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter. If the Contractor transmits a patent application disclosing a classified subject invention to the United States Patent and Trademark Office (USPTO), the Contractor shall submit a separate letter to the USPTO identifying the contract or contracts by agency and agreement number that require security classification markings to be placed on the patent application.
- C. Inclusion of clause in subcontracts. The Contractor agrees to include the substance of this clause in subcontracts at any tier that cover or are likely to cover subject matter classified for reasons of security.

Termination for Cause (cl. ci-67 - Feb 2007)

Battelle may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide Battelle, upon request, with adequate assurances of future performance. In the event of termination for cause, Battelle shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to Battelle for any and all rights and remedies provided by law. If it is determined that Battelle improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

Termination for Convenience (cl. ci-68 - Feb 2007)

Battelle 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 Battelle 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 Battelle or the Government 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.

Excusable Delays (cl. ci-69 - Feb 2007)

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 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 Battelle Contracts Representative 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 Battelle Contracts Representative of the cessation of such occurrence. Such an excusable delay may result in an extension of the contract completion date but will not result in additional funding.

Suspect Material (cl. QA-179 - Aug 2011)

The Contractor shall assure that all products delivered on this contract do not contain suspect/counterfeit parts as indicated in the S/CI Awareness Training Manual (PDF) http://energy.gov/sites/prod/files/2014/06/f16/SCI_Training_Manual.pdf. If suspect/counterfeit parts are discovered, this may be cause for rejection of the entire shipment and will be reported to the U.S. Department of Energy, Office of Inspector General for possible investigation. The discrepant product(s) will be returned at the Contractor's expense. In addition, the contract may be terminated for default.

Insurance Requirements (cl. 378 - Apr 2017)

A. Contractor shall purchase and maintain during the term of this Contract, at its own expense, and any extensions thereof, insurance in amounts reasonable and customary for the industry in which Contractor is engaged. Contractor shall maintain all insurance which is required by any law, statute, ordinance, or regulation of any jurisdiction having authority in whole or in part over the Contractor's operations or Contract activities, including without limitation any non-U.S. jurisdictions. Nevertheless, the following minimum insurance coverage shall be maintained:

1. Workers Compensations: Statutory
2. Employers' Liability: \$100,000 per occurrence

3. Commercial General Liability (including contractual and products and completed operations liability): \$1,000,000 per occurrence
 4. Business Auto Liability (to include bodily injury and property damage liability covering the operation of all autos owned and unowned used in connection with performance of contract): \$1,000,000 combined single limit
 5. Professional Liability: To the extent the contract requires professional services to be rendered with a minimal per occurrence limit of \$1,000,000.
 6. Any additional insurance which may be reasonably required by Battelle or the Department of Energy
- B. The insurance coverage shall be with insurer(s) that are satisfactory to Battelle. Battelle shall be designated as an Additional Insured under the Commercial General Liability, Business Auto Liability, and any Umbrella coverages. Contractor's insurance shall be primary and non-contributing over any and all insurance that may be maintained by Battelle. Contractor and its insurer(s) shall waive all rights of subrogation against Battelle, its officers, directors, agents, trustees and employees.
- C. Contractor shall furnish to Battelle Certificates of Insurance evidencing compliance with the insurance requirements herein. These certificates shall be provided prior to the initiation of contract activities and upon each policy renewal for a total of three years after termination or expiration of this Contract. Failure of Battelle to notify Contractor of any non-compliance with the provisions of this Contract shall not constitute a waiver of Contractor's obligations under this Contract. Battelle does not warrant or represent that the minimum amounts of coverage required are sufficient to protect the Contractor in fulfilling its obligations under this subcontract. Such minimum insurance limits shall not limit Contractor's liability under this Contract. Contractor shall require any lower-tier subcontractors to satisfy the requirements of this provision.

Inspection of Services – Fixed Price (cl. 379b - Aug 1996)

- A. Definition. "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to Battelle covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to Battelle during contract performance and for as long afterwards as the contract requires.
- C. Battelle has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. Battelle shall perform inspections and tests in a manner that will not unduly delay the work.
- D. If Battelle performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- E. If any of the services do not conform to contract requirements, Battelle may require the Contractor to

perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, Battelle may—

1. Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and
 2. Reduce the contract price to reflect the reduced value of the services performed.
- F. If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, Battelle may—
1. By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or
- D. Terminate the contract for default.

Inspection of Supplies – Fixed Price (cl. 379c - Aug 1996)

- A. Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- B. The Contractor shall provide and maintain an inspection system acceptable to Battelle covering supplies under this contract and shall tender to Battelle for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to Battelle during contract performance and for as long afterwards as the contract requires. Battelle may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.
- C. Battelle has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. Battelle shall perform inspections and tests in a manner that will not unduly delay the work. Battelle assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.
- D. If Battelle performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, Battelle shall bear the expense of inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, Battelle shall not be liable for any reduction in the value of inspection or test samples.

- E. 1. When supplies are not ready at the time specified by the Contractor for inspection or test, the Battelle Contracts Representative may charge to the Contractor the additional cost of inspection or test.
2. The Battelle Contracts Representative may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.
- F. Battelle has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. Battelle may reject nonconforming supplies with or without disposition instructions.
- G. The Contractor shall remove supplies rejected or required to be corrected. However, the Battelle Contracts Representative may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.
- H. If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, Battelle may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Battelle Contracts Representative may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.
- I. 1. If this contract provides for the performance of Battelle quality assurance at source and if requested by Battelle, the Contractor shall furnish advance notification of the time—
- a. When Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract; and
 - b. When the supplies will be ready for Battelle inspection.
2. Battelle's request shall specify the period and method of the advance notification and the Battelle representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Battelle representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.
- J. Battelle shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Battelle's failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on Battelle, for nonconforming supplies.
- K. Inspections and tests by Battelle do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
- L. If acceptance is not conclusive for any of the reasons in Paragraph K hereof, Battelle, in addition to any

other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor—

1. At no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at Battelle's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Battelle Contracts Representative; provided, that the Battelle Contracts Representative may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or
2. Within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if Battelle elects not to require correction or replacement.

When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in Paragraph L.1. or L.2. of this clause and does not cure such failure within a period of 10 days (or such longer period as the Battelle Contracts Representative may authorize in writing) after receipt of notice from Battelle specifying such failure, Battelle shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned Battelle thereby.

Sustainable Acquisition Requirements (cl. 381 – Oct 2015)

Battelle is committed to managing its operations in a sustainable manner which promotes the natural environment and protects the health and well-being of its employees and contractor service providers. In the performance of work under this contract, the Contractor shall provide products that comply with Federal law as follows (regardless of any notations on the respective websites):

Recycled Content as designated by the Environmental Protection Agency (EPA) - <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

Biobased Products as designated by the United States Department of Agriculture (USDA) - <http://www.biopreferred.gov/BioPreferred/faces/pages/ProductCategories.xhtml>

Energy-Efficient Products such as Energy Star certified and FEMP-designated products - http://www.energystar.gov/index.cfm?c=product_specs_p_t_product_specs and <http://energy.gov/eere/femp/search-energy-efficient-products>

Water-Efficient Products as designated by the EPA for their WaterSense® label program - <https://www.epa.gov/watersense>

Environmentally preferable and energy efficient electronics, including desktop computers, laptops and monitors, as specified at the Green Electronics Council's Electronic Products Environmental Assessment Tool (EPEAT) registry- <http://www2.epeat.net/searchoptions.aspx>

Non-Ozone Depleting Alternative Products as designated by the EPA - <http://www.epa.gov/ozone/snap/index.html>

Low-Emitting Volatile Organic Compounds (VOC) Materials

as designated by the Federal Leadership in High Performance and Sustainable Buildings Guiding Principles (including adhesives, sealants, paints, carpet systems, and furnishings) for building modifications, maintenance, and cleaning - <http://www.epa.gov/greeningepa/projects/requirements.htm>

Environment, Safety, and Health Requirements - Offsite (cl. 311.3e – May 2012)

- A. In performing work under this contract at its own facilities or any other location that is not a DOE-owned or leased facility, the Contractor shall comply with all applicable federal, state, and local environment, safety, and health laws and regulations. The Contractor shall also perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The Contractor shall exercise a degree of care commensurate with the work and the associated hazards. The Contractor shall ensure that management of environment, safety, and health functions and activities becomes an integral but visible part of the Contractor's work planning and execution processes.
- B. The Contractor is responsible for its subcontractors' compliance with the environment, safety, and health requirements of this contract.

Foreign Travel (cl. 366 – Oct 2020)

- A. Foreign travel means approved travel (whether wholly or partly on official business) from the United States (including Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories and possessions of the United States) to a foreign country and return, travel between foreign countries, by persons, including foreign nationals, whose salaries or travel expenses or both will ultimately be funded in whole or in part by DOE or NNSA from its appropriations. Official foreign travel also includes travel funded by non-DOE or non-NNSA sources for which the traveler represents the Department or NNSA or conducts business on behalf of the U.S. Government.
- B. Foreign travel in connection with the performance of this contract shall be subject to the prior approval of DOE and shall be conducted pursuant to the requirements contained in DOE Order 550.1, Official Foreign Travel, or any subsequent version of the order in effect at the time of award.
- C. Requests for approval of each separate trip shall be submitted to the Battelle Contracts Representative no less than sixty days prior to a planned departure date. The Contractor will not incur any travel costs until after it receives notice of Advanced Travel Request approval from the Battelle Contracts Representative.
- D. For any foreign travel in connection with conferences, Contractor shall ensure that information for conference attendance, including but not limited to agenda and presentation, is submitted to the Battelle Contracts Representative with the initial travel request.
- E. Personal leave in conjunction with Contractor's authorized foreign travel may be granted on a two

business days to one personal day (2:1) ratio. Travel days to and from business location will be considered business days. All expenses associated with Contractor's personal leave while on foreign travel shall be borne by Contractor and are not reimbursable by Battelle.

U. S. Federal and State Tax Withholding and Reporting, and Foreign Tax Credits (cl. 355 - June 2016)

Contractor agrees to cooperate fully with Battelle in providing any tax documentation that is required in support of any U.S. federal or state tax withholding or reporting responsibility, including but not limited to IRS Forms W-9, 8233, W-8BEN, W-8IMY, W-8EXP, or W-8ECI as applicable, and any required state tax forms including, but not limited to California Forms 590 or 587. It is understood that tax certification forms are required even where tax withholding will take place; however where a lesser amount of tax withholding, or exemption from tax withholding is allowed through the submission of the form, Battelle will make all commercially reasonable efforts where legally possible to honor the claim. Completion of the required tax forms is a condition of this contract, and any such forms must be completed prior to any payment taking effect. Battelle will act in compliance with U.S. federal and state tax withholding and reporting laws and will deduct any and all applicable U.S. federal or state withholding taxes from payments to Contractor wherever required by law. Contractor acknowledges that such withholding by Battelle does not relieve Contractor of liability to pay taxes in the event that any taxing authority should determine that the amount of withholding is inadequate.

Further, if this is a cost reimbursement contract and Contractor obtains a foreign tax credit that reduces its U.S. Federal income tax liability because of the payment of any tax or duty that was reimbursed under this contract, the amount of the reduction shall be paid or credited at the time of such offset to Battelle.

Prohibition on Participation in Foreign Government Talent Recruitment Programs (cl. 312 - September 2019)

Applies to research & development (R&D) or demonstration contracts performed on or at a DOE/NNSA site/facility, including DOE/NNSA/Battelle leased space.

- A. Contractor shall utilize due diligence to ensure that neither it nor any of its employees, applicable subcontractor employees or joint appointees, working at any level, participate in a foreign government talent recruitment program of a foreign country of risk while performing work under this contract. A "foreign government talent recruitment program" means any foreign-state-sponsored attempt to acquire U.S. scientific-funded research or technology through foreign government-run or funded recruitment programs that target scientists, engineers, academics, researchers, and entrepreneurs of all nationalities working or educated in the United States.
- B. Contractor shall file reports with Battelle on a quarterly basis stating whether it or any such employees or joint appointees are participants in a foreign government talent recruitment program of a foreign country of risk, or whether the Contractor has a reasonable basis to report such employees or joint

appointees as a participant in a foreign government talent recruitment program of a foreign country of risk.

- C. Contractor shall notify Battelle and the U.S. Department of Energy (DOE) Office of Intelligence and Counterintelligence within five (5) business days upon, at any time during the term of the contract, including options and extensions, learning that it or any of its employees, applicable subcontractor employees, or joint appointees are or are believed to be participants in a foreign government talent recruitment program of a foreign country of risk.
- D. Upon filing quarterly reports in accordance with paragraph B., or providing notifications in accordance with paragraph C., the Contractor will be notified by Battelle's Contracts Representative whether it or any of its employees, applicable subcontractor employees or joint appointees, are participants in a foreign government talent recruitment program of a foreign country of risk covered by this clause. Following notification by the Battelle Contracts Representative, the Contractor shall take appropriate action to ensure that, within thirty (30) days of notification, neither it nor any such employees or joint appointees are participants in a foreign government talent recruitment program of a foreign country of risk while performing work under this contract.
- E. Failure by the Contractor to reasonably ensure that neither it nor any of its employees participate in a foreign government talent recruitment program of a foreign country of risk may result in Battelle exercising contractual remedies in accordance with federal regulations and the terms of the contract, up to and including termination of this contract.
- F. The Contractor is responsible for flowing down the requirements of this clause to R&D or demonstration subcontracts at any tier to the extent necessary to ensure Contractor's compliance with the requirements, where the lower tier subcontractor's work under this contract is performed on or at a DOE/NNSA site/facility, including DOE/NNSA/Battelle leased space.
- G. Battelle reserves the right to direct Contractor to remove the employee(s) participating in a foreign government talent recruitment program from performing any work under this contract on or at any facility of the Pacific Northwest National Laboratory (PNNL) or from any other DOE/NNSA site/facility (including DOE/NNSA/Battelle leased facilities). To the extent Battelle requires the Contractor employee(s) participating in the foreign government talent recruitment program to be removed from performing any further work under this contract, Contractor shall do so unless such employee(s) agree to discontinue his/her/their participation in the foreign government talent recruitment program. Contractor is not entitled to any claim for equitable adjustment against Battelle as a result of direction provided under this subparagraph.

Unclassified Foreign Visits and Assignments (cl. 3114 - October 2020)

This clause applies when foreign nationals will have access to DOE owned or leased sites, information, technologies, or equipment under this contract.

All foreign national contractor personnel must be approved in writing by Battelle before being granted access to any

PNNL or DOE facilities, systems, technologies or information under this contract. Contractor shall provide the following information as applicable by individual:

- A. Non-U.S. Citizen Pre-Visit Form
- B. Passport and visa documents (non-immigration documentation) or immigrant document (lawful permanent resident card)

Contractor shall provide a point-of-contact, through which, such information shall be provided.

Information Technology (cl. 399 – Nov 2012)

All information technology software, systems, and services delivered under this contract shall include the use of common security configurations available from the National Institute of Standards and Technology's Computer Security Resource Center website at <http://csrc.nist.gov/>, unless otherwise specified by Battelle in the Statement of Work or technical specifications.

Ethics (cl. 310 - Sept 2017)

Battelle demands the highest standard of ethics, integrity, and conduct in its operations. The Contractor must not pay bribes or engage in corrupt practices to advance any interests associated with Battelle. This includes directly or indirectly offering, paying, promising to pay, or authorizing the payment or provision of money or anything of value to government officials (including foreign officials), political parties, or candidates for political office for the purpose of influencing their acts or decisions in their official capacity to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, the Contractor or Battelle. The Contractor must never engage in illegal activities, including, but not limited to, money laundering or actions related to terrorism, or do business with parties or persons upon whom sanctions have been imposed by the U.S. Government. Failure to comply with this provision is considered a material breach of contract and cause for termination

Clauses Incorporated by Reference (cl. 3001-CI – Jun 2017)

The following additional Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulation (DEAR) clauses, which may be 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 the Contract and as prescribed below. This Contract is between Battelle and Contractor, and does not constitute a contract with DOE or the Government. Battelle is a prime contractor for DOE and is not a Government agency or an agent of the Government. In addition, Battelle's Contracts Representatives are not Government Contracting Officers. However, solely for purposes of flowing down the appropriate FAR and DEAR clauses to this Contract, the term "Government", as referenced in the clauses, shall be interpreted to mean Battelle and the term "Contracting Officer", as referenced in the clauses, shall be interpreted to mean the Battelle Contracts Representative for this Contract

The Contractor shall include the listed clauses in its sub-contracts at any tier to the extent applicable.

FAR 52.203-6	Restriction on Subcontractor Sales to the Government (Sept 2006) – <i>Alternate I (Oct 1995) – applies if the contract value exceeds \$250,000.</i>
FAR 52.203-7	Antic-Kickback Procedures (May 2014) – <i>applies if the contract value exceeds \$150,000</i>
FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Oct 2010) – <i>applies if the contract value exceeds \$150,000.</i>
FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Oct 2015) – <i>applies if the contract value exceeds \$5,500,000 and the performance period is more than 120 days.</i>
FAR 52.203-16	Preventing Personal Conflict Of Interest (Dec 2011)– <i>applies if the contract value exceeds \$150,000.</i>
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014) – <i>applies if the contract value exceeds \$250,000.</i>
FAR 52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2015) – <i>Applies if the contract value exceeds \$30,000. Contractor agrees to provide such information to Battelle or to maintain it for a period of not less than three years following contract completion and to provide it to the Government upon request.</i>
FAR 52.204-14	Service Contract Reporting Requirements (Oct 2016) - <i>applies when the estimated award of service contracts or orders is \$500,000 or greater except for actions entirely funded by DoD or classified contracts or contracts awarded with a generic entity identifier</i>
FAR 52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) – <i>applies to indefinite-delivery contracts for services where any order issued is \$500,000 or greater except for actions entirely funded by DoD or classified contracts or contracts awarded with a generic entity identifier</i>
FAR 52.204-21	Basic Safeguarding of Covered Contractor Information Systems (Jun 2016) <i>Applies to actions other than COTS</i>
FAR 52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2019)
FAR 52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) - <i>applies to all contracts exceeding \$35,000.</i>
FAR 52.219-4	Notice of Price Evaluation for HUB-Zone Small Business Concerns (Oct 2014)

FAR 52.219-8	Utilization of Small Business Concerns (Oct 2018) - <i>applies if the contract value exceeds \$250,000</i>		<i>performed outside the U.S. and when specific U.S. directives or notices regarding combating trafficking in persons apply to contractor employees at the contract place of performance.</i>
FAR 52.219-9	Small Business Subcontracting Plan (Aug 2018) - <i>applies if the contract value exceeds \$700,000 and contractor is a large business concern.</i>	FAR 52.222-54	Employment Eligibility Verification (Oct 2015) – <i>applies if the contract value exceeds \$3,500 and for (a) commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item) and (b) construction services; only applies for work performed in the United States.</i>
FAR 52.219-28	Post-Award Small Business Program Representation (Jul 2013) - <i>applies if the contract value exceeds \$10,000</i>		
FAR 52.222-1	Notice to the Government of Labor Disputes (Feb 1997)		
FAR 52.225-8	Duty-Free Entry (Oct 2010 – <i>applies when supplies identified in the Contract Schedule to be accorded duty-free entry into the customs territory of the United States; or other foreign supplies in excess of \$15,000 not identified in the Contract Schedule which may be imported into the customs territory of the United States</i>	FAR 52.222-55	Minimum Wages under Executive Order 13658 (Dec 2015) – <i>applies to contracts subject to the Service Contract Labor Standards statute when performed wholly or in part in the United States.</i>
FAR 52.222-21	Prohibition of Segregated Facilities (Apr 2015)		
FAR 52.222-26	Equal Opportunity (Apr 2015) <i>The Equal Employment Opportunity Act Poster referenced in paragraph (c)(3) of the above clause may be downloaded from the U.S. Department of Labor website at www.dol.gov/elaws/posters.htm.</i>	FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) – <i>applies if the contract value exceeds \$10,000</i>
FAR 52.222-29	Notification of Visa Denial (Apr 2015) – <i>applies when the Equal Opportunity clause is used and when the work is required to be performed in a foreign country.</i>	FAR 52.224-1	Privacy Act Notification (Apr 1984) – <i>applies when contracts requires the design, development, or operation of a system of records on individuals.</i>
FAR 52.222-35	Equal Opportunity for Veterans (Oct 2015) – <i>applies if the contract value exceeds \$150,000.</i>	FAR 52.224-2	Privacy Act (Apr 1984) - <i>applies when contracts requires the design, development, or operation of a system of records on individuals.</i>
FAR 52.222-36	Equal Opportunity for Workers with Disabilities (Jul 2014) – <i>applies if the contract value exceeds \$15,000.</i>	FAR 52.225-1	Buy American Act – Supplies (May 2014) as modified by DEAR 970.2570 (Nov 2010)- <i>applies if the contract value exceeds \$25,000, unless the requirement is restricted to domestic end products (see FAR 25.101), the goods to be delivered will be used outside the United States, or the goods and materials are not available from U.S. manufacturers</i>
FAR 52.222-37	Employment Reports on Veterans (Feb 2016) – <i>applies if the contract value exceeds \$150,000.</i>		
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) – <i>applies if the contract value exceeds \$10,000 and will be performed wholly or partially in the United States.</i>	FAR 52.225-26	Contractors Performing Private Security Functions Outside the United States (Jul 2013)
FAR 52.222-41	Service Contract Labor Standards (May 2018) - <i>applies if the Contract is principally for the furnishing of services through the use of "service employees" and if the Contract exceeds \$2,500 UNLESS the Contract qualifies for class deviation under Section 4(b) of the McNamara-O'Hara Service Contract Act.</i>	FAR 52.225-13	Restrictions on Certain Foreign Purchases (June 2008)
FAR 52.222-50	Combating Trafficking in Persons (Mar 2015) including Alternate 1 – <i>applies to all contracts exceeding \$500,000. Alternate 1 applies when work will be</i>	FAR 52.227-1	Authorization and Consent (Dec 2007), without Alternate 1 - <i>applies if the contract value exceeds \$100,000.</i>
		FAR 52.227-3	Patent Indemnity (Apr 1984) – <i>applies as required by FAR 27.201-2(c)(1)</i>
		FAR 52.227-10	Filing of Patent Applications – Classified Subject Matter (Dec 2007) – <i>applies if the Contract involves a classified solicitation or contract or a solicitation or contract where the nature of the work reasonably might result in a patent application containing classified subject matter</i>

FAR 52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)		<i>the contract involves work performed directly related to activities at DOE-owned or leased sites.</i>
FAR 52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)	DEAR 952.211-71	Priorities and Allocations (Apr 2008)
FAR 52.244-6	Subcontracts for Commercial Items (Jun 2016) – <i>applies if the contract value exceeds \$250,000.</i>	DEAR 970.5208-1	Printing (Dec 2000)
FAR 52.245-1	Government Property (January 2017) Alternate I (April 2012) – <i>applies if Certified Cost or Pricing data is not required</i>	DEAR 970.5222-1	Collective Bargaining Agreements Managing and Operating Contracts (Dec 2000)
FAR 52.246-16	Responsibility for Supplies (Apr 1984)	DEAR 970.5225-1	Compliance with Export Control Laws and Regulations (Nov 2015)
FAR 52.247-63	Preference for U.S.-Flag Air Carriers (June 2003)	DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (Aug 2002) - <i>applies if the contract value exceeds \$250,000.</i>
FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	DEAR 970.5227-8	Refund of Royalties (Aug 2002) – <i>applies if the amount of royalties reported by Contractor during negotiations of this Contract exceeds \$250.</i>
DEAR 952.203-70	Whistleblower Protection for Contractor Employees (Dec 2000) – <i>applies if</i>		