

## GENERAL TERMS & CONDITIONS

### Commercial Items (CI – FEB 2007)

**1. DEFINITIONS.** The following terms shall have the meanings below:

(a) Government means the United States of America and includes the U. S. Department of Energy (DOE) or any duly authorized representative thereof.

(b) Company means BWXT Y-12, L.L.C., acting under Contract No. DE-AC05-00OR22800.

(c) Seller means the person or organization that has entered into this Agreement with Company.

(d) Agreement means Purchase Order, Subcontract, Price Agreement, AVID Agreement, Basic Ordering Agreement, or Modification thereof.

(e) Subcontract Administrator means Company's cognizant Procurement representative.

(f) Subcontract Technical Representative means the duly authorized Company representative who provides technical direction for performance of the work under this Agreement.

**2. ORDER OF PRECEDENCE.** Any inconsistencies shall be resolved in accordance with the following descending order of precedence: (1) Articles of the Subcontract or provisions of the Purchase Order (including alterations and special provisions therein), (2) Special Terms and Conditions attached thereto, (3) General Terms and Conditions, (4) Statement of Work or description.

**3. TITLE AND ADMINISTRATION.** Title to supplies furnished under this Agreement shall pass directly from Seller to the Government. Company shall make payments under this Agreement from Government funds advanced and agreed to be advanced by DOE, and not from its own assets. Administration of this Agreement may be transferred, in whole or in part, to DOE or its designee(s), and to the extent of such transfer and notice thereof to Seller, Company shall have no further responsibilities hereunder.

**4. ACCEPTANCE OF TERMS AND CONDITIONS.** Seller, by signing this Agreement or delivering the items identified herein, agrees to comply with all the terms and conditions and all specifications and other documents that this Agreement incorporates by reference or attachment. Company hereby objects to any terms and conditions contained in any acknowledgment of this Agreement that are different from or in addition to those mentioned in this document. Failure of Company to enforce any of the provisions of this Agreement shall not be construed as evidence to interpret the requirements of this Agreement, nor a waiver of any requirement, nor of the right of Company to enforce each and every provision.

**5. COOPERATING WITH DOE OFFICE OF INSPECTOR GENERAL.** (a) Seller shall cooperate fully and promptly with requests from the DOE Office of Inspector General (OIG) for information and data relating to DOE

programs and operations. The Seller must ensure that its employees (i) comply with requests by the OIG for interviews and briefings and provide affidavits or sworn statements, if so requested by an employee of the OIG so designated to take affidavits or sworn statements, and (ii) not impede or hinder another employee's cooperation with the OIG.

(b) Seller must ensure that reprisals are not taken against employees who cooperate with or disclose information to the OIG.

**6. COMPLIANCE WITH LAWS.** (a) In performing work under this Agreement, the Seller shall comply with the requirements of applicable Federal, State, and local laws and regulations, unless relief has been granted in writing by the appropriate regulatory agency.

(b) Except as otherwise directed by the Company, the Seller shall procure all necessary permits or licenses required for the performance of work under this Agreement.

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

**7. WORK SCHEDULE** (a) BWXT Y-12 has adopted a work schedule of four ten-hour days, Monday through Thursday. Shifts begin at 6:00 a.m., 6:30 a.m., 7:00 a.m., 7:30 a.m., 8:00 a.m., or 8:30 a.m. Seller employees working on site at Y-12 must adopt the work schedule of four ten-hour days and must work shifts acceptable to their Subcontract Technical Representatives.

(b) Shipments will not be received at Y-12 on Fridays. Shipments will be received Mondays through Thursdays from 7:00 a.m. to 1:30 p.m. (7:00 a.m. to 11:00 a.m. for hazardous materials).

(c) The Seller must include this clause in subcontracts requiring work to be performed on site at Y-12.

**8. PROHIBITED ITEMS AT Y-12.** (a) General. The prohibitions in this clause apply at the Y-12 National Security Complex and at sites leased by BWXT Y-12, LLC.

(b) Alcohol. Alcoholic beverages are prohibited.

(c) Cell phones. (1) Cellular telephones that are not owned by the Government or BWXT Y-12, LLC are prohibited without prior written approval obtained through the Subcontract Technical Representative (STR). Cellular telephones may be secured in the owner's private vehicle within parking areas at the Y-12 National Security Complex and at leased sites. They should remain secured at all times while within the Blue Line (229 boundary) of Y-12 unless required to report a personal emergency within the 229 boundary. A personal emergency is an immediate need for assistance (e.g., an after-hours car – deer accident, a car breakdown, an acute health condition such as a heart attack, etc.). In a personal emergency, the personal cellular telephone should be used to contact the Y-12 Plant Shift Superintendent's Office (574-7172). Calling 911 from a cellular telephone will not notify BWXT Y-12 of an emergency, though Company emergency resources would be

the closest respondent. Therefore, calling 911 instead of 574-7172 is inappropriate.

(2) Seller employees must self-report to the STR any violation of these restrictions on cellular telephones.

(d) Dangerous instruments. Instruments likely to produce substantial injury to persons or property are prohibited. This prohibition includes:

- Bows and arrows
- Explosive devices
- Firearms
- Knives with blades longer than three inches
- Martial arts weapons and equipment
- Weapons or simulated weapons

(e) Flash memory data storage devices. Memory devices [such as Universal Serial Bus (USB) flash memory drives, USB memory keys, memory sticks, etc.] are prohibited without prior written approval obtained through the STR. Approval will require that the device be labeled according to BWXT Y-12 guidance pertaining to data content type and thereafter properly accounted for and destroyed if required.

(f) Pagers. Two-way pagers are prohibited. One-way pagers and pagers that have the capability for the user to select and transmit one of several manufacturers' pre-programmed responses (for example, "Message received") are allowed.

(g) PDA's. Personal digital assistants [also called personal electronic devices (PEDs)] such as Blackberry, Pireas, Hewlett-Packard Palmtop Computer, and Hewlett-Packard Jomada Palmtop, are prohibited without prior written approval obtained through the STR.

(h) Transmitting, recording and photographic equipment. Transmitting, recording, or photographic equipment is prohibited without prior written approval obtained through the STR. Such equipment includes, but is not limited to:

- Cameras
- Portable tape players
- Portable two-way radios
- Tape recorders
- Video recorders

(i) Wireless devices. The following devices are prohibited without prior written approval obtained through the STR:

- Cordless telephones
- Devices with infrared capability
- Global Positioning System (GPS) units
- Wireless local area networks (WLAN)
- Wireless mice and keyboards
- Wireless-enabled computers, including laptop computers
- Wireless radios (such as Nextel)
- Wireless wide area networks
- Wireless audio-visual support equipment (such as wireless microphones)
- Wireless scanners and bar code readers
- Wireless tags
- Wireless special purpose sensors and other wireless instruments
- Wireless data acquisition equipment and data loggers

(j) Subcontracts. The Seller shall include this clause in lower-tier subcontracts requiring work to be performed at the

Y-12 National Security Complex and at sites leased by BWXT Y-12, LLC.

**9. DOE SECURITY BADGES.** (a) Security badges issued by the Company to Seller employees and Seller's lower-tier subcontractor employees are Government property. The Seller must ensure that badges issued to its employees and employees of its subcontractors at all tiers are returned to the Company. Employees must return badges upon expiration of this agreement, termination of employment, or when access to the Y-12 National Security Complex is no longer needed. Employees holding an L or Q clearance must attend a security termination debriefing conducted by the Company when returning badges. When possible, the Seller must notify the STR three workdays before an employee holding an L or Q clearance will be returning a badge so that debriefings may be scheduled.

(b) The Seller must immediately notify the Subcontract Administrator in writing when a badge of its employee or the employee of a lower-tier subcontractor is lost or stolen. These employees must report in person to the Visitor Center badging office to complete an affidavit concerning the loss or theft and to obtain replacement badges.

(c) The Seller must immediately notify the Subcontract Administrator in writing whenever any employee of Seller or a lower-tier subcontractor who has been badged under this Agreement terminates employment or no longer needs access to the Complex.

(d) The Seller must ensure that its employees and its lower-tier subcontractors' employees complete the *BWXT Y-12 Subcontractor Personnel Exit Checklist*, Form UCN- 4452S, before exiting the site. The employee must take the completed Checklist and badge to the Visitor Center badging office. If the Visitor Center is closed (hours of operation are Monday-Thursday 6:00 a.m. to 4:30 p.m.) the employee may leave the Checklist and badge with the STR. (In such cases alternate debriefing arrangements will be made for employees holding an L or Q clearance.) The Checklist, signed by the STR or an authorized representative of Personnel Security, is acceptable proof to the Company that a badge has been returned.

(e) Seller's payment may be withheld until all requirements of this clause have been met. Failure by employees of the Seller and its lower-tier subcontractors to return badges will result in a charge of \$500 per badge, to be withheld from payment or billed to the Seller. This \$500 charge will not be assessed against badges that are lost or stolen during performance if replacement badges are issued to allow Seller or lower-tier subcontractor employees to return to work.

(f) On the last Thursday of each month, the Seller shall submit to the STR a Subcontract Badge Status report for that month on Form UCN-21709.

**10. PAYMENT.** Unless otherwise provided, terms of payment shall be net 30 days from the latter of (1) receipt of Seller's proper invoice, if required (unless such invoice is not approved), or (2) delivery of items/completion of work if invoice is not required. Any offered discount shall be taken if payment is made within the discount period that Seller indicates. Payments may be made either by check or electronic funds transfer, at the option of Company. 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.

**11. ASSIGNMENT.** Seller shall not assign rights or obligations to third parties without the prior written consent of Company. However, Seller may assign rights to be paid amounts due or to become due to a bank, trust company, or other financing institution, including a Federal lending agency, if Company is promptly furnished written notice and a signed copy of such assignment.

**12. RESOLUTION OF DISPUTES.** (a) Seller and Company agree to make good-faith efforts to settle any dispute or claim that arises under this Agreement through discussion and negotiation. If such efforts fail to result in a mutually agreeable resolution, the parties shall consider the use of alternative disputes resolution (ADR). In the event non-binding mediation or arbitration is agreed upon, the site of the proceedings shall be Oak Ridge, Tennessee, the parties shall share the cost of obtaining the mediator or arbiter, and each party shall bear its discretionary costs.

(b) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of legal right, the payment of money in a sum certain, the adjustment or interpretation of Agreement terms, or other relief arising from or relating to this Agreement, or the breach thereof. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim, but may be converted to a claim by the Seller as provided in paragraph (c) below.

(c) A claim by the Seller shall be made in writing, cite this clause, and be submitted to the BWXT Y-12 Procurement Manager with a request for a final decision.

(d) After receipt of a claim from the Seller, the Procurement Manager shall, within 60 calendar days, issue a written decision or notify the Seller of the date by which the decision will be made. The decision shall be final and conclusive between the parties unless the Seller files suit in the appropriate court as provided for in paragraph (e) below. Seller shall have no right to file suit prior to the date of the decision or 60 calendar days from the Procurement Manager's receipt of the claim, whichever occurs earlier.

(e)(1) Where Seller is a State agency, such as an Educational Institution, the applicable constitutional provisions or statutes that govern sovereign immunity shall dictate the appropriate forum and law governing substantive issues.

(2) In all other cases, subject to (e)(3) below, any litigation shall be brought and prosecuted exclusively in Federal District Court, with venue in the United States Court for the Eastern District of Tennessee, Northern Division; (3) provided, however, that in the event the requirements for jurisdiction in Federal District Court are not present, such litigation shall be brought in either Anderson, Knox, or Roane County, Tennessee, in the Circuit or Chancery Court, as appropriate.

(f) The parties agree that, subject to (e)(1), substantive issues presented for mediation, arbitration, dispute, claim, litigation, or other effort at resolution related to clauses or portions of clauses that are substantially identical in all

material respects to Federal Acquisition Regulation (FAR), Department of Energy Acquisition Regulation (DEAR), or General Services Administration (GSA) clauses shall be determined, to the maximum extent practicable, in accordance with federal law as interpreted by the United States Court of Appeals for the Federal Circuit, the United States Court of Federal Claims, and the federal agency Boards of Contract Appeals. The parties further agree that, subject to (e)(1), all other substantive issues presented for mediation, arbitration, dispute, claim, litigation, or other effort at resolution shall be determined in accordance with the laws of the State of Tennessee.

(g) There shall be no interruption in the performance of the work, and Seller shall proceed diligently with the performance of this Agreement pending final resolution of any dispute arising under or related to this Agreement between the parties hereto or between Seller and its subtier subcontractors.

**13. BANKRUPTCY.** If Seller enters into any proceeding relating to bankruptcy, it shall give written notice via certified mail to the Subcontract Administrator within five days of initiation of the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court and a listing, by Company Agreement number, of all Company agreements for which final payment has not been made.

**14. CHANGES.** (a) Company may at any time, by written order, make changes within the general scope of this Agreement in any one or more of the following:

- (1) Method of shipment or packing.
- (2) Place of delivery of supplies.
- (3) Description of services to be performed.
- (4) Time of performance of the services (*i.e.*, hours of the day, days of the week, etc.).
- (5) Place of performance of the services.

(b) If any such change causes a difference in the cost of or the time required for performance, an equitable adjustment shall be made in the price and/or delivery schedule and other affected provisions. Such adjustment shall be made by written amendment to this Agreement signed by both parties. Any request for adjustment by Seller must be made within 30 days from the date of receipt of Company's change order, although Company in its sole discretion may receive and act upon any claim for adjustment at any time before final payment.

(c) Only the Subcontract Administrator is authorized on behalf of Company to issue changes whether formal or informal. If Seller considers that any direction or instruction by Company personnel constitutes such a change, Seller shall not rely upon such instruction or direction without written confirmation from the Subcontract Administrator.

(d) Nothing in this clause, including any disagreement with Company about the equitable adjustment, shall excuse Seller from proceeding with the Agreement as changed.

**15. INSPECTION/ACCEPTANCE.** The Seller shall only tender for acceptance supplies and services that conform to the requirements of this Agreement. The Company reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Company may require repair or

replacement of nonconforming supplies or reperformance of nonconforming services at no increase in price. The Company must exercise its post-acceptance rights—

(a) Within a reasonable time after the defect was discovered or should have been discovered; and

(b) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

**16. WARRANTY.** Seller warrants that items delivered under this Agreement shall be in accordance with Seller's affirmation, description, sample, or model and compliant with all requirements of this Agreement. The warranty shall begin upon acceptance and extend for a period of (1) the manufacturer's warranty period or six months, whichever is longer, if Seller is not the manufacturer and has not modified the item or (2) one year or the manufacturer's warranty period, whichever is longer, if Seller is the manufacturer of the item or has modified it. If any nonconformity with item appears within that time, Seller shall promptly repair or replace such items or reperform services. Transportation of replacement items and return of nonconforming items and repeat performance of services shall be at Seller's expense. If repair or replacement or reperformance of services is not timely, Company may elect to return the nonconforming items or repair or replace them or reprocur the services at Seller's expense. Any implied warranties of merchantability and fitness for a particular purpose are hereby disclaimed.

**17. RESPONSIBILITY FOR SUPPLIES.** (a) Title to supplies furnished under this Agreement shall pass to the Government upon acceptance, regardless of when or where the Company takes physical possession, unless the Agreement specifically provides for earlier passage of title.

(b) Unless the Agreement specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Seller until, and shall pass to the Company upon—

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Acceptance by the Company or delivery of the supplies to the Company at the destination specified in the Agreement, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) of this clause shall not apply to supplies that so fail to conform to Agreement requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Seller until cure or acceptance. After cure or acceptance, paragraph (b) of this clause shall apply.

(d) Under paragraph (b) of this clause, the Seller shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Company acting within the scope of their employment.

**18. SUSPECT/COUNTERFEIT ITEMS.**

(a) Definitions. (1) A suspect item is one that visual inspection, testing, or other means indicate may not conform to established Government or industry-accepted specifications or national consensus standards; or one whose documentation, appearance, performance, material, or other characteristics

may have been misrepresented by the supplier or manufacturer.

(2) A counterfeit item is a suspect item that has been copied or substituted without legal right or authority or whose material, performance, or other characteristics are misrepresented by the supplier or manufacturer.

(b)(1) Items furnished under this Agreement are intended for use in a U.S. Department of Energy (DOE) facility. Suspect and counterfeit items in the following categories have been discovered at DOE sites:

- Threaded fasteners, including fasteners in assemblies such as ratchet tie-down straps, and in particular fasteners in critical load paths of lifting equipment such as fixed and mobile cranes, forklifts, scissor lifts, manlifts, balers, truck and dock lifts, elevators, conveyors, and slings.
- Electrical components (circuit breakers, semi-conductors, current and potential transformers, fuses, resistors, switchgear, overload and protective relays, motor control centers, heaters, motor generator sets, DC power supplies, AC inverters, transmitters, GFCI's).
- Piping components (fittings, flanges, valves and valve replacement products, couplings, plugs, spacers, nozzles, pipe supports).
- Materials, including sheet, strip, castings, and other forms, and particularly materials for which welding and heat-treating are required for conformance to specifications.
- Welding rod and electrodes.
- Computer memory modules.

(2) Additional guidance on suspect and counterfeit items and their indicators is available at the DOE web sites <http://www.eh.doe.gov/sci> and [http://www.eh.doe.gov/sci/SCI Awareness Training Manual 12-07-04.pdf](http://www.eh.doe.gov/sci/SCI_Awareness_Training_Manual_12-07-04.pdf)

(c) The Seller and its subcontractors and suppliers shall maintain sufficient control to prevent the procurement, installation, use, and delivery of materials and equipment that contain or exhibit suspect or counterfeit item characteristics or conditions.

(d) Notwithstanding any other provision of this Agreement, the Seller warrants that all items furnished under this Agreement shall be genuine, new, and unused unless otherwise specified in writing by the Company. The Seller further warrants that all items used by the Seller in the performance of the work under this Agreement at the Y-12 National Security Complex consist of all genuine, original, and new components, or are otherwise suitable for the intended purpose. The Seller's warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Company.

(e) DOE has determined that SAE Grades 5, 8, and 8.2 and ASTM Grade A325 fasteners, identified on DOE's Suspect Bolt Headmark List must not be introduced into DOE facilities. (DOE's Suspect Bolt Headmark List may be seen on the "Procurement" link at <http://www.y12.doe.gov>.) Therefore, such fasteners shall not be provided as deliverable end items or incorporated into deliverable end items under this Agreement.

(f) (1) No “fastener,” as defined by the Fastener Quality Act (the Act), 15 U.S.C. 5401 et seq., shall be supplied to the Company as a deliverable end item or incorporated into deliverable end items unless it exhibits grade-identification markings and manufacturer’s insignia required by the Act and implementing regulations of the Department of Commerce at 15 CFR Part 280.

(2) Records of conformance required by the Act shall be provided to the Company by the Seller upon request.

(g)(1) Vehicles and equipment with suspect fasteners described in paragraph (e) above or other suspect/counterfeit items in critical applications are not allowed on DOE sites. (A critical application is one in which failure of the item could potentially result in injury to persons or damage to the property, equipment, or environment.)

(2) The Seller must inspect all vehicles and equipment for suspect/counterfeit items and submit the “Suspect/Counterfeit Item Certification” to the STR before bringing them on site. The required Certification form is available on the “Procurement” link at <http://www.y12.doe.gov>.

(3) Vehicles and equipment on site owned or controlled by the Seller and found to contain suspect/counterfeit items must not be further used pending a Company evaluation. If the Company determines that the suspect/counterfeit items are in critical applications, the items must be repaired or replaced before the vehicles or equipment may be returned to use. Repair or replacement will be at the Seller’s expense.

(h)(1) Molded case circuit breakers that cannot be substantiated by Seller as new, or that give an appearance to Company inspectors or electricians of having been used, refurbished, or reconditioned may be rejected by Company on the basis of appearance alone.

(2) The Company may obtain an opinion from the original manufacturer concerning legitimacy of any molded case circuit breaker furnished under this Agreement. The Company may reject any molded case circuit breaker provided by Seller based on the manufacturer’s opinion.

(3) (A) If a molded case circuit breaker is not provided by Seller in the original manufacturer’s packaging, Seller shall notify Company prior to shipment and shall provide the specific identification and markings of the container(s) to be supplied.

(B) The original manufacturer’s markings, date code if used, and labels shall not have been altered or obliterated.

(C) The handle of the molded case circuit breaker shall show the original manufacturer’s rating in a “hot stamp” which shall not be subsequently altered or obliterated.

(D) Terminal configuration and hardware shall not have been altered or modified from the original equipment provided by the manufacturer.

(E) All molded case circuit breakers shall be Underwriters’ Laboratory (UL) rated, listed, approved, and accordingly labeled.

(i) Equipment or assemblies that consist of or contain electrical components shall exhibit, as applicable, legible amperage and voltage ratings, operating parameters, and the product manufacturer’s labels and identification. Electrical components shall exhibit labels from a nationally recognized testing laboratory.

(j) Materials and equipment delivered under this Agreement shall exhibit the manufacturer’s original labels and identification.

(k) The Seller shall indemnify the Company, its agents, and assignees for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts furnished or used under this Agreement that are not genuine, original, and unused, or otherwise not suitable for the intended purpose. The Seller’s indemnity includes any financial loss, injury, or property damage resulting directly or indirectly from items furnished or used under this Agreement that are defective, suspect, or counterfeit; or that have been provided under false pretenses; or that are materially altered, damaged, deteriorated, degraded, or result in product failure.

(l) Suspect/counterfeit items furnished under this Agreement will be impounded by the Company. The Seller must promptly replace them with items acceptable to the Company, and the Seller shall be liable for all costs relating to discovery, removal, impoundment, and replacement of materials and equipment that contain or exhibit suspect or counterfeit item characteristics or conditions.

(m) Detection by the Company of any suspect or counterfeit condition may result in an investigation by the U.S. Government.

(n) The Seller shall include this clause in subcontracts hereunder.

(o) The rights of Company in this clause are in addition to any other rights provided by law or contract.

**19. RISK OF LOSS.** Where Company is liable to Seller for loss of conforming items occurring after the risk of loss has passed to Company, Company shall pay Seller the lesser of (1) the agreed price of such items, or (2) Seller’s cost of replacing such items. Such loss shall entitle Seller to an equitable extension in delivery schedule obligations.

**20. TRANSPORTATION.** If transportation is specified “FOB Origin,” (a) no insurance cost shall be allowed unless authorized in writing and (b) the bill of lading shall indicate that transportation is for DOE and the actual total transportation charges paid to the carrier(s) by Company shall be reimbursed by the Government pursuant to contract No. DE-AC05-00OR22800. Confirmation may be made by the DOE Oak Ridge Operations Office, Procurement and Contracts Division, P.O. Box 2001, Oak Ridge, TN 37831-8756.

**21.** Company may terminate this Agreement for default, in whole or in part, if, after 10 days from Company’s written notice, Seller fails to comply with any of the terms of this Agreement, or fails to provide adequate assurance of future performance. In that event, Company shall not be liable for any amount for items supplies or services not accepted, and the Seller shall be liable to the Company for any and all rights and remedies provided by law. If it is determined that the Company improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

**22. EXCUSABLE DELAYS.** The Seller shall not be liable for default if its nonperformance is caused by an occurrence beyond the reasonable control of the Seller 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 Seller shall notify the Company in writing as soon as reasonably possible after any excusable delay begins and ends.

**23. TERMINATION FOR CONVENIENCE.** Company reserves the right to terminate this Agreement, or any part hereof, for the convenience of itself or the Government. In the event of such termination, Seller shall immediately stop all work terminated and shall immediately cause any and all of its affected suppliers and subcontractors to cease work. Subject to the terms of this Agreement, Seller shall be paid a percentage of the price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of Company using its standard record keeping system, have resulted from the termination. Seller shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This clause does not give Company or the Government the right to audit Seller's records. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

**24. CLAUSES INCORPORATED BY REFERENCE.** (a) The clauses listed in paragraph (c) below are incorporated herein by reference. The texts of FAR clauses are available at <http://www.arnet.gov/far>, the texts of DEAR clauses are available at <http://www.pr.doe.gov/dear.html> and the texts of Company clauses are available on the "Procurement" link at: <http://www.y12.doe.gov>. Except as provided in (b) below, in the listed clauses "Contractor" means the Seller, "Government" means the Company, "Contract" means this Agreement, and "Contracting Officer" means the Company's Subcontract Administrator.

(b) "Government" retains its meaning in:

(1) Paragraph (a) of Exhibit 3 - Authorization and Consent.

(2) Exhibit 5 – Patent Indemnity.

(3) Exhibit 7 – Classified Inventions.

(c)(1) The following clauses are incorporated in all Agreements:

- FAR 52.222-26 Equal Opportunity (APR 2002), (The required poster is available at: <http://www.dol.gov/dol/esa/public/regs/compliance/posters/eo.htm>)
- 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 52.225-8 Duty-Free Entry (FEB 2000)
- FAR 52.244-6 Subcontracts for Commercial Items and Commercial Components (DEC 2004)
- Taxes: Fixed-Price (Company-11/96)

- Hazardous Material Identification and Material Safety Data (AUG 2005) (Company)
- Exhibit 3 - Authorization and Consent (Company 7/95)
- Exhibit 5 - Patent Indemnity (Company 4/84)

(c)(2) The following clauses are incorporated if this Agreement exceeds \$100,000:

- FAR 52.219-8 Utilization of Small Business Concerns (MAY 2004)
- FAR 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004)
- DEAR 970.5227-5 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 2002)

(c)(3) The following clause is incorporated if this Agreement exceeds \$500,000: FAR 52.219-9 Small Business Subcontracting Plan (July 2005)

(c)(4) The following clauses are incorporated by reference when Seller personnel work on site at the Y-12 National Security Complex:

- DEAR 952.223-75 Preservation of Individual Occupational Radiation Exposure Records (APR 1984)
- DEAR 952.203-70 Whistleblower Protection for Contractor Employees (DEC 2000)
- Badging Process for Uncleared Seller Employees (JAN 2006) (Company)
- Foreign Nationals (Company-12/99)
- Hazardous Materials Reporting (AUG 2005) (Company)
- Insurance - Work on a Government Installation (Company-1/97)
- Personal Identity Verification for Seller Employees Requiring Security Clearances (DEC 2005) (Company)
- Required Training (Company-11/00)
- Safety and Health (OCT 2006) (Company)
- Subcontract Administrative Requirements (FEB 2007) (Company)
- Y-12 Appropriate Footwear Policy (OCT 2005)

(c)(5) The following clauses are incorporated when the work involves access to classified information or special nuclear material:

- DEAR 952.204-2 Security (MAY 2002)
- DEAR 952.204-70 Classification/Declassification (SEP 1997)
- Exhibit 7 - Classified Inventions (Company 5/80)
- FAR 52.227-10 Filing of Patent Applications - Classified Subject Matter (APR 1984)
- Civil Penalties for Classified-Information Security Violations (AUG 2005) (Company)