

**BROOKHAVEN SCIENCE ASSOCIATES, LLC
SUPPLEMENTAL TERMS AND CONDITIONS
WORK BY CONTRACTORS ON SITE
AT
BROOKHAVEN NATIONAL LABORATORY**

Article 1 Identification of Employees

- (a) The Contractor agrees, pursuant to Executive Order 12989, to use an electronic Employment Eligibility Verification (E-Verify) system designated by the Secretary of Homeland Security to verify the eligibility of:
 - (i) all persons hired during the contract term by the Contractor to perform duties within the United States; and
 - (ii) all persons assigned by the Contractor to perform work within the United States on the Federal Contract.

The Contractor agrees to incorporate the substance of this clause in all subcontracts under this contract.

- (b) All contractor and subcontractor employees who will perform work on the Brookhaven National Laboratory (BNL) site are required to attend the Contractor/Supplier Orientation Training Course their first day on site and be approved by Brookhaven Science Associates, LLC (BSA). Contractor and subcontractor employees who have not attended the Safety Orientation will be directed to stop work until they have done so.
- (c) At no cost to the Contractor, BSA will issue contractor employee photo identification badges which will be required to obtain access to the site.
- (d) U.S. citizens must bring proof of citizenship, photo ID and proof of Social Security number. Acceptable citizenship proof is a passport, birth certificate, naturalization papers, voting eligibility, or similar documentation. Drivers' license, military ID cards, union cards, and Social Security cards are insufficient by themselves as proof of citizenship. Proof of Social Security number includes Social Security card, pay stub, W-2 form or medical insurance card. Handwritten documents are not acceptable. Upon arrival at the BNL Main Gate, they will be sent to the Visitors Trailer to receive a temporary pass, which allows them access to the site to attend CVO training.
- (e) All non-U.S. citizen workers, including Legal Permanent Residents, requiring access to BNL shall complete a Guest Registration Form by entering all of the required information. This registration can be located from the BNL home page, <http://www.bnl.gov> by selecting the Guest Registration link. Each worker shall provide the requested personal information and information concerning their company and submitting the form. Note the designated BNL sponsor must be included on the form. Non-U.S. citizens shall provide documentation showing eligibility to be in the United States. This includes a valid passport and visa. Other documentation, to include but not limited to, a permanent resident card, passport entry "process form 1-551", INS documents 1-94, 1-20, DS-2019, or 1-539 part 3 and proof of Social Security, may be necessary to establish legal status and work on the BNL site. Failure to provide proper documentation will result in access being denied until the required documents are provided. Foreign National Contractor employees must submit all required documents 30 days in advance of the required access date as access approvals may take up to 30 days. All Foreign National Contractor employees are responsible to ensure they remain in legal INS status. BNL ID badges will expire on the expiration date of their current legal status or one year after issuance, whichever comes first. At that point they must reapply with updated documentation to continue eligibility to work at BNL.
- (f) The Contractor shall assure that all Contractor and Subcontractor employees

promptly obtain a current BNL contractor employee photo identification badge. Contractor/Vendor Orientation Training must be completed before a badge will be issued. Badges shall be obtained from the Badging Office, in the Brookhaven Research Support Building, Bldg. 400, Brookhaven Avenue, Monday through Thursday, between 8:30 am. through 4:00 pm. and Friday from 8:30 am through 1:00 pm. To keep badging time to a minimum, the Contractor should limit sending all of his employees at the same time.

- (g) All contractor and subcontractor employees shall wear their ID badges visibly at all times while on site
- (h) Contractor employee identification badges are valid for one year after issuance and require renewal at the Badging Office Bldg. 400. Immediately on release of employees or project completion, whichever comes sooner, the badge holder or the Contractor's authorized representative shall return badges to the Badging Office, in the Brookhaven Research Support Building, Bldg. 400.
- (i) All badge holders shall report lost identification badges immediately to the Badging Office, Bldg. 400.

Article 2 Compliance with Environment, Safety, Health, and Traffic Regulations.

- (a) The Contractor shall take all reasonable precautions to protect the environment and the safety and health of employees and the public in the performance of work hereunder. The Contractor shall comply with the rules and regulations set forth in BSA's Safety Program, Contractor Orientation Program, all applicable requirements contained in 10 CFR 851, Worker Safety and Health Program, all applicable OSHA standards, BSA's ES&H Standards, Security Protocols and NY State Vehicle and Traffic Laws.
- (b) The consumption or unauthorized possession of alcoholic beverages is prohibited in all areas of the BNL site. Personnel who consume alcohol off-site or found in possession of alcoholic beverages shall be restricted from entering BNL.
- (c) All contractor personnel that may be working on or near energized electrical equipment (as defined in BNL Electrical Safety subject area: https://sbms.bnl.gov/sbmsearch/subjarea/192/192_sa.cfm?parentID=192, must provide objective evidence to BSA's Work Control Coordinator/Manager or designee of having satisfactorily completed electrical safety training that meets the requirements of NFPA 70E prior to performing work on site to assure awareness of the hazards and safety-related work practices
- (d) If the Contractor fails to comply with said regulations or requirements, BSA may issue an order stopping all or any part of the work hereunder, without prejudice to any other legal or contractual rights BSA may have. A start order for resumption of the work may be issued at Brookhaven's discretion. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of, or in connection with, such work stoppage.
- (e) BSA reserves the right to charge back to the Contractor actual costs incurred by BSA directly or indirectly to perform safety inspections, complete paperwork, investigate and prepare occurrence reports as a result of the Contractor's failure to comply with said regulations or requirements. Traffic violations will also be charged back to the Contractor based on actual cost. A non-negotiable unilateral deduct change order will be issued to the Contractor, and punitive penalties may be assessed to individuals by dismissing them from the Brookhaven site based on the extent of the noncompliance.
- (f) BSA will evaluate the Contractor on its safety performance, including that of its subcontractors. The number and severity of safety and security violations, including traffic violations, will be considered in this evaluation. Repeated and/or

willful violations are cause for termination for default and may affect the Contractor's opportunity to bid on future work at BNL.

Article 3 **Reporting of Accidents.**

The Contractor shall notify BSA immediately of any injury or alleged injury, and of any loss, destruction or damage to property of Brookhaven or the government, and shall promptly furnish Brookhaven with a statement concerning such injury, damage or loss in such detail as BSA may require. All accident reports filed with the Contractor's Worker's Compensation carrier (Forms C2.5 and C11) and the total man-hours lost as a result of an accident under this contract shall be submitted monthly to BSA's PPM Division.

Article 4 **Insurance.**

- (a) The Contractor shall, at no cost to BSA, maintain policies providing the following insurance protection, which insurance shall apply to all operations of the Contractor hereunder and employees of the Contractor engaged therein. Unless waived in writing by BSA's PPM Division, the Contractor shall also provide an endorsement to its liability policies either (i) naming Brookhaven Science Associates, LLC and the U.S. Government as additional insureds or (ii) insuring the Contractor's obligations under the paragraph hereof entitled "Independent Contractor; Hold Harmless."
 - (1) *Worker's Compensation* – Coverage as provided in the Worker's Compensation Law of the State having jurisdiction, including occupational disease coverage for limits of \$1,000,000 per person in any one case and additional Employees Liability of \$1,000,000 per occurrence.
 - (2) *General Liability* – Insurance with limits of \$1,000,000/\$2,000,000 for bodily injury liability and \$100,000 for property damage liability in the comprehensive liability form.
 - (3) *Automobile Liability* – Insurance with limits of \$250,000/500,000 for bodily injury liability and \$50,000 for property damage liability in the comprehensive policy form.
- (b) The Contractor may purchase such additional or other insurance protection, as it may deem necessary, at its own expense.
- (c) The Contractor shall furnish BSA's PPM Division a certificate of insurance to show compliance with paragraph (a) above. The insurance certificate shall be submitted within fourteen (14) days of award and prior to issuance of a Notice to Proceed. The Contractor shall also ensure that such certificate states that the insurance carrier(s) will give BSA 30 days prior written notice if there is any cancellation or material change in such policies. The Contractor shall also ensure that such certificates are kept up to date during the period of contract performance.

Article 5 **Inspection of Vehicles and Materials.**

- (a) All vehicles removing materials from anywhere on the Brookhaven site must pass through the unmanned Vehicle Radiation Monitoring System (VRMS) before and after the materials are loaded. If radioactive materials are detected, the driver shall immediately notify Brookhaven by calling the number indicated on the VRMS telephone. The VRMS is located on the north side of Princeton Avenue between Upton and Weaver Drive.
- (b) A vehicle found to contain radioactive material may not leave the Brookhaven site until the material is identified and removed. Only vehicles carrying radioactive materials that are properly packaged and labeled in accordance with U.S.

Department of Transportation regulations are exempt from this procedure. Materials removed from known radiological areas must be monitored in accordance with the applicable provisions of the procedure FS-SOP-1005, Radiological Surveys required for the Release of Material from Areas Controlled for Radiological Purposes found at: (<https://sbms.bnl.gov/SBMSearch/ld/ld19/ld19d081.doc>), a copy of which is available for review at BSA's PPM Division

- (c) The Laboratory reserves the right to inspect and search vehicles entering or leaving the site.

Article 6 Workplace Substance Abuse Programs at DOE Sites.

Department of Energy Acquisition Regulation (DEAR) clause 970.5223-4 is incorporated herein by reference as it exists on the date of this contract, with the same force and effect as if it were in full text. The clause is available at <http://management.energy.gov/DEAR970.pdf> or it may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. Whenever necessary to make the context of the clause applicable to this contract, the term "Contractor" shall mean the Contractor, the term "Contract" shall mean this agreement, and where noted or where necessary to derive proper meaning in a subcontract situation the terms "DOE", "Government" and "Contracting Officer" shall mean Brookhaven, except the terms "DOE", "Government" and "Contracting Officer" do not change where statute or regulation vests authority exclusively in specific agencies or officials.

Article 7 Integration of Environment, Safety, and Health into Work Planning and Execution

- (a) In performing work under this Contract, the Contractor shall comply with all applicable federal, state and local environment, safety and health laws and regulations. The Contractor shall also comply with 10 CFR 851, DOE Worker Safety and Health Program and DEAR 970.5223-1, Integration of Environment, Safety and Health into Work Planning and Execution (Dec. 2000). Compliance with 10 CFR 851 and DEAR 970.5223-1 is to be guided by following paragraphs (b) through (h) set forth below.
- (b) The Contractor shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and will be held accountable for the safe performance of work. The Contractor will exercise a degree of care commensurate with the work and the associated hazards. The Contractor will ensure that management of environment, safety and health (ES&H) functions and activities becomes an integral but visible part of the Contractor's work planning and execution processes. The Contractor will, in the performance of work, ensure that:
 - (1) Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities, and will retain records respecting such competency and qualifications, making them available upon request.
 - (2) Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public, and the environment is a priority whenever activities are planned and performed.
 - (3) Prior to work performance, the associated hazards will be evaluated and a set of ES&H standards and requirements will be established and implemented to provide assurance that employees, the public, and the environment are protected from adverse consequences.

- (4) Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis will be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.
 - (5) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those contractor and subcontractor employees managing or supervising employees performing work.
 - (6) Clear and unambiguous lines of authority and responsibility for ensuring ES&H compliance will be established and maintained at all organizational levels.
- (c) The Contractor, relative to the Statement of Work and contract specifications, must perform and manage work in accordance with BSA's DOE-approved Worker Safety and Health Program and the Integrated Safety Management Program and demonstrate through documentation and work practices that its performance of work under this contract:
- (1) Fulfills the scope of work as outlined in this contract
 - (2) Identifies and analyzed specific, task-level hazards associated with the work
 - (3) Develops and implemented hazard controls related to the hazards
 - (4) Allows the performance of work within the controls
 - (5) Provides feedback on the adequacy of hazard controls and continued improvement in safety management.
- (d) In performing work in accordance with BSA's DOE-approved Worker Safety and Health Program and the Integrated Safety Management Program the Contractor will, prior to initiation of work:
- (1) Demonstrate well-established safety protocols applicable to the scope of work and consistent with the requirements of this clause. Prior to commencement of work on any separately definable activity, the Contractor must:
 - (a) Submit a Phase Hazard Analysis (PHA) of the affected work. The analysis must:
 - (i) identify foreseeable hazards and planned protective measures;
 - (ii) address further hazards revealed by supplemental site information (e.g., site characterization data, as-built drawings);
 - (iii) provide drawings and/or other documentation of protective measures for which applicable Occupational Safety and Health Administration (OSHA) standards require preparation by a Professional Engineer or other qualified professional;
 - (iv) identify competent persons required for workplace inspections of the activity, where required by OSHA standards; and
 - (v) address hazards identified in the Statement of Work and this Agreement.

- (b) Ensure workers are aware of foreseeable hazards and the protective measures described within the activity analysis prior to beginning work on the activity.
 - (c) Require that workers acknowledge being informed of the hazards and protective measures associated with the work activity. Those workers failing to utilize appropriate protective measures must be subject to the Contractor's disciplinary process.
 - (d) A "Stop Work" policy similar to that established by BSA.
 - (e) Provide proof that employees were informed of their Worker Rights and Responsibilities set out in 10 CFR 851.20(b).
- (2) During periods of active work, the Contractor must have a designated representative on the worksite who, is knowledgeable of the project's hazards and has authority to act on behalf of the Contractor. The designate representative must make frequent and regular inspections of the worksite to identify and correct any instances of noncompliance with the project safety and health requirements.
 - (3) Workers must be instructed to report to the Contractor's designated representative hazards not previously identified or evaluated. If immediate corrective action is not possible or the hazard falls outside the project's scope, the Contractor must immediately notify affected workers, post appropriate warning signs, implement needed interim control measures, and notify BSA of the action taken. The Contractor or designated representative must stop work in the affected area until appropriate protective measures are established.
- (e) Exposure Monitoring/Occupational Medicine. The Contractor will perform the following additional hazard identification tasks compliant with the BSA Worker Safety and Health Program and the Integrated Safety Management Program and the PHA, prior to commencing work:
 - (1) Contractor is responsible for identifying all potential exposures (chemical, biological, radiological, physical) to which its employees or the employees of its lower-tier subcontractors will be exposed while performing work under this contract. Contractor is responsible to provide qualified monitoring and assessment personnel and is responsible for providing the required exposure monitoring and providing employees appropriate personal protective equipment to minimize exposures.
 - (2) Contractor shall have an occupational medicine program that is compliant with the applicable requirements of 10 CFR 851, Appendix A. Contractor shall ensure that its employees and the employees of any lower tier subcontractor employees are medically qualified to perform work associated with any potential exposures and hazards that have been identified. Medical qualification and medical surveillance programs are the sole responsibility of the Contractor. In addition, the Contractor is responsible for maintaining any records associated with the administration of these programs. In the event that the Contractor or lower tier subcontractor employee requires a medical qualification examination or medical surveillance program, it is the Contractor's sole responsibility to obtain these services. Contractor must provide evidence that they have an occupational medical provider with a licensed medical physician.
 - (f) The Contractor shall notify the BSA Contractual Representative immediately of

any OSHA-recordable injuries/illnesses, any “off-normal occurrences,” or Government property damaged, that the Contractor determines to have occurred in the course of operations on-site and shall furnish such further information as the BSA Contract Representative may require. An “off-normal occurrence” is any unplanned or unexpected event, including near misses, or the discovery of a deficiency in a procedure, plan, or system that has real or potentially undesirable consequences to personnel, equipment, facilities, the environment, and/or programs. In addition, the Contractor is responsible for ensuring compliance with 10 CFR 851.26 Recordkeeping and Reporting.

- (g) The Contractor’s on-site ES&H activities will be subject to review by the Technical Representative of this contract. Other representatives of BSA may conduct periodic inspections of the Contractor’s on-site offices, equipment, work and storage areas for compliance with the applicable ES&H requirements. The BSA Contract Representative will notify the Contractor by a written Notice of Non-compliance of any observed non-compliance with applicable ES&H requirements. The Contractor shall immediately take appropriate corrective action. The Contractor shall advise the BSA Contract Representative, in writing, within five (5) working days of the corrective action taken on any safety non-compliance noted on the written Notice of Non-compliance. If the Contractor fails or refuses to correct the safety non-compliance, BSA may perform, or cause to be performed, the necessary corrective work and unilaterally charge the Contractor for the cost thereof. Such charges will be deducted from payments otherwise due the Contractor under this contract. Repeated or willful non-compliances with applicable ES&H requirements by the Contractor shall constitute a default under other provisions of this contract and BSA may terminate the contract in accordance with those provisions.
- (h) The Contractor shall promptly evaluate and resolve any non-compliance with applicable ES&H requirements. If the Contractor fails to provide resolution or if at any time, the Contractor’s acts or failure to act causes substantial harm or an imminent danger to the environment, or health and safety of employees or the public, the BSA Contractual Representative may issue an order stopping work in whole or in part and the Contractor shall be liable for the delay and any costs thereby incurred. Any stop-work order issued by BSA under this clause (or issued by the Contractor to a subcontractor in accordance with this clause) shall be without prejudice to any other legal or contractual rights of BSA. In the event that the BSA Contractual Representative issues a stop-work order, an order authorizing the resumption of the work may be issued at the discretion of the BSA Contract Representative. The Contractor shall not be entitled to an extension of time, or additional cost or fee, or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.
- (i) Employee Concerns Program
 - (1) The Contractor, its agents, employees or subcontractors, are entitled to use the BSA Employee Concerns Program and Hotline (631) 344-2888, or the ES&H Hotline (631)344-8800. The Hotline operates 24 hours per day, 7 days a week. Messages may be left anonymously, and all concerns are handled with confidentiality to the maximum extent possible. Employee concerns may also be submitted in writing to the BSA Employee Concerns Program, Building 400, or in person to Susan Foster, Bldg. 400, 344-2888 during normal business hours, Monday through Friday 7:30 a.m. to 4:30 p.m.
 - (2) For the purpose of this document, allegations, concerns, and complaints are handled in a like manner and are referred to collectively as “employee concerns.” A concern can consist of a declaration, statement,

or assertion of impropriety or inadequacy on the part of one's employer or others at a DOE Site that has affected (or threatens to affect) aspects of operations, such as the environment, health, safety, quality, or security, and may include fraud, mismanagement, waste, or abuse of authority.

(3) No retaliation or retribution shall be taken toward any individual as a result of filing an employee concern consistent with 10 CFR 708.

(j) **Civil Penalties and Indemnification**

(1) The 2002 Bob Stump National Defense Authorization Act amended the Atomic Energy Act by adding section 234C "Worker Health and Safety Rules for Department of Energy Nuclear Facilities." It required DOE to promulgate a worker safety and health rule. DOE published the Rule in the Federal Register on February 9, 2006. The rule is codified at 10 CFR 851. It establishes worker safety and health requirements that govern the conduct of contractor activities at both nuclear and non-nuclear sites. Contractors that fail to comply with the Rule are subject to civil penalties issued by DOE up to \$70,000.00 per violation, with each day of violation constituting a separate violation, or contractual penalties.

(2) The Contractor assumes full responsibility and shall indemnify, hold harmless, and defend BSA, its directors, officers, and employees from any civil liability under §234C of the Atomic Energy Act of 1954, as amended, or DOE's implementing regulations, arising out of the activities of the Contractor, its subcontractors, suppliers, agents, employees, and their officers, or directors. The Contractor's obligation to indemnify and hold harmless shall expressly include attorney fees and other reasonable costs of defending any action or proceeding instituted under §234C or DOE's implementing regulations.

(k) The Contractor is responsible for its subcontractors' compliance with the ES&H requirements of this contract. The Contractor shall include a clause substantially the same as this clause in subcontracts involving complex or hazardous work on site at BSA or owned or operated facilities or premises. Such subcontracts shall provide for the right to stop work under the conditions described herein.

Article 8 Clauses Incorporated by Reference

The following changes are made to the Article of the General Terms and Conditions titled "Clauses Incorporated by Reference":

(a) Add:
FAR 52.204-9- "Personal Identity Verification of Contractor Personnel"

Article 9 Work Planning and Execution for Contracts That Require a Formal Health and Safety Plan

Should the Contractor be required to provide a Health and Safety Plan as noted in the Contract, and in order to fulfill the requirements of Article 7 above, the Contractor must submit a Health and Safety Plan and obtain approval of the plan from BSA's Technical Representative before work may proceed (Refer to BSA "Contractor Health and Safety Plan (HASP) Template", found at https://sbms.bnl.gov/sbmsearch/subjarea/109/109_Exh26.cfm?ExhibitID=7272, a copy of which is available for review at BSA's PPM Division.

The Contractor will be notified of the Health and Safety plan (HASP) acceptance by BSA. Acceptance of the Contractor's worker health and safety plans will be at the sole discretion of BSA.