

**Appendix A-1 Amendment to Argonne's Terms & Conditions
Dated**

**SPECIAL TERMS AND CONDITIONS FOR THE CORAL II BUILD PURCHASE
ORDER**

A. DISPUTES

1. Any claim for an equitable adjustment under the Agreement not resolved in the ordinary course of business shall be referred in writing to the Argonne National Laboratory Procurement Representative within 60 calendar days of the act, event, or order giving rise to the claim. The Contractor must submit its claim for an equitable adjustment, if any, within 120 days of the directed change, or by such other time as the Argonne National Laboratory Procurement Representative may permit. The representatives of the parties, or their designees, shall then attempt in good faith to resolve the dispute by negotiations. All negotiations shall be confidential and shall be treated as compromise and settlement negotiations, for the purposes of application of rules of evidence. Pending resolution of the dispute, the Contractor shall proceed diligently with the performance of the Agreement, in accordance with its terms and conditions.

2. If the parties do not resolve the dispute within 120 days of the initial dispute notice, either party may provide notice of its demand for formal dispute resolution through non-binding mediation. Within 30 days after the formal dispute resolution demand, the parties will meet for one day with an impartial mediator selected by mutual agreement and consider dispute resolution alternatives other than litigation. If the parties cannot agree on a mediator, they will each select one nominator, who must not at that time be employed by either party, and the two nominators will agree on and appoint the mediator.

3. If the parties do not resolve the dispute or agree on an alternative method of dispute resolution within 60 days after the formal dispute resolution demand, either party may begin litigation proceedings. All disputes arising out of or related to this Agreement, whether based on contract, tort, or any other legal or equitable theory, will be subject to the exclusive jurisdiction of the courts of the State of Illinois or of the Federal courts sitting in that State.

B. EXPORT CONTROL

Each party agrees that it does not intend to disclose, provide, or release to the other articles, services or technical data that are controlled by the International Traffic in Arms Regulation ("ITAR"), and that it will comply with the Export Administration Regulation ("EAR"). Each party acknowledges its liability to the extent provided by law for non-compliance with export control laws.

C. U.S. NATIONAL LABORATORIES AND AGENCIES

The Contractor recognizes that work performed under this purchase order is of interest not only to Argonne National Laboratory, but to other U.S. national laboratories and agencies as well. The Contractor agrees that personnel at the U.S. national laboratories and agencies identified below shall have the same rights to use the work on the system installed at Argonne National Laboratory that Argonne National Laboratory has under this Purchase Order:

- UChicago Argonne LLC, manager and operator of Argonne National Laboratory (ANL)
- Lawrence Livermore National Security LLC, manager and operator of Lawrence Livermore National Laboratory (LLNL)
- The University of California, manager and operator of Lawrence Berkeley National Laboratory (LBNL)
- UT-Battelle LLC, manager and operator of Oak Ridge National Laboratory (ORNL)
- Los Alamos National Security LLC, manager and operator of Los Alamos National Laboratory (LANL)
- Sandia Corporation, manager and operator of Sandia National Laboratory (SNL)
- U.S. Department of Energy, National Nuclear Security Administration (NNSA)
- U.S. Department of Energy, Office of Science (DOE SC)

This clause does not in any way limit or restrict Argonne National Laboratory's or the Government's rights set forth in this purchase order.

D. GO/NO-GO DECISION & MEMORY PRICE RISK SHARE

TBD

E. OBLIGATIONS OF THE PARTIES

Argonne National Laboratory and the Contractor agree that this Agreement involves the development of cutting-edge technology under aggressive schedules. Argonne National Laboratory and the Contractor agree (i) that the Contractor shall use reasonable efforts to deliver in accordance with the requirements and schedules set forth in this Purchase Order, and (ii) to reasonably consider limitations that may occur in meeting obligations under this Purchase Order. If the Contractor is unable to meet its performance obligations, then Argonne National Laboratory and the Contractor hereby agree to

negotiate the SOW and the Agreement price, if necessary, to reflect changes to the Contractor's performance obligations. Argonne National Laboratory and the Contractor agree to use this process to address performance issues before resorting to any rights or remedies available by way of the *Termination For The Laboratory's Convenience* clause of the ARGONNE TERMS AND CONDITIONS (FOR COMMERCIAL ITEMS), and the Disputes clause contained in this Appendix A-1 Amendment/Modifications to Argonne Terms and Conditions.

F. UNWIND PROVISION

TBD

G. SOURCE CODE

The Contractor shall deliver source code for software delivered with the System, which may include the ability of Argonne National Laboratory to build software binaries that reproduce Contractor delivered binaries that can be installed on the System, as mutually agreed upon by the parties. The source code shall allow Argonne National Laboratory to assist the Contractor in performing software maintenance of the System.

END of Appendix A-1