

CONTRACT NO. HHSO100200900002I (H1N1)
FLOWDOWN REQUIREMENTS FOR
FLEXIBLY-PRICED CONTRACTS
(COST-REIMBURSEMENT, TIME-AND-MATERIALS,
LABOR-HOUR CONTRACTS)

This contract is entered into by the parties in support of a U.S. Government contract. As used in the FAR clauses and other clauses incorporated by reference below and otherwise in this Contract:

1. "Commercial Item" means a Commercial Item as defined in FAR § 2.101.
2. "Contract" means this contract.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for MEDIMMUNE's government prime contract under which this Contract is entered.
4. "Contractor" and "OFFEROR" means the SELLER, as defined in this Contract, acting as the immediate (first tier) subcontractor to MEDIMMUNE.
5. "Prime Contract" means the contract between MEDIMMUNE and the U.S. Government or between MEDIMMUNE and its higher-tier contractor who has a contract with the U.S. Government.
6. "Subcontract" means any contract placed by the contractor or lower-tier subcontractors under this Contract.

I. INCORPORATION OF FAR CLAUSES

The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were stated in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contract Disputes Act, 41 U.S.C. § 601, *et seq.*, shall have no application to this Contract. Any reference to "Disputes" or a "Disputes clause" shall mean the disputes provisions of this Contract.

A. NOTES

1. Substitute "MEDIMMUNE" for "Government" or "United States" throughout this clause.
2. Substitute "MEDIMMUNE Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Insert "and MEDIMMUNE" after "Government" throughout this clause.
4. Insert "or MEDIMMUNE" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the Contractor to/from the Contracting Officer shall be through MEDIMMUNE.
6. Insert "and MEDIMMUNE" after "Contracting Officer", throughout the clause.
7. Insert "or MEDIMMUNE PROCUREMENT REPRESENTATIVE" after "Contracting Officer" throughout the clause.

B. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If MEDIMMUNE furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) which the U. S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that MEDIMMUNE, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other U. S. Government prime contracts.

C. CLAUSES INCORPORATED BY REFERENCE

The following clauses from the Federal Acquisition Regulation (FAR) are hereby incorporated in the Contract by reference and shall have the same force and effect as if set forth in full text. The Contractor hereby acknowledges that it has in its possession or is otherwise familiar with all of the referenced clauses incorporated herein by reference and agrees to perform this Contract in accordance with the provisions of such referenced clauses and the other provisions of this Contract. The full text of the referenced clauses may be accessed electronically at various Internet sites, including <http://farsite.hill.af.mil/> and <http://www.arnet.gov>.

REFERENCE	TITLE
1.	The following FAR clauses apply to this Contract:
(a) 52.202-1	DEFINITIONS (JULY 2004)
(b) 52.215-17	WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if this Contract is subject to the Cost Principles of FAR Subpart 31.2 and the Contractor did not propose facilities cost of money in its offer.)
(c) 52.215-19	NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applicable if this contract meets the applicability requirements of FAR § 15.408(k). Note 5 applies.)
(d) 52.215-21	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Note 2 applies.)
(e) 52.222-21	PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
(f) 52.222-26	EQUAL OPPORTUNITY (MAR 2007) (Paragraphs (b)(1)-(11) apply.) [NOT APPLICABLE OUTSIDE U.S.]
(g) 52.222-41	SERVICE CONTRACT ACT OF 1965 (NOV 2007)
(h) 52.222-50	COMBATING TRAFFICKING IN PERSONS (FEB 2009) (Note 6 applies.)
(i) 52.225-1	BUY AMERICAN ACT - SUPPLIES (FEB 2009) (Applicable if the work contains other than domestic components. Note 2 applies to the first time "Contracting Officer" is mentioned in paragraph (c).)
(j) 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUNE 2008)

- (k) 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)
- (l) 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applicable if the amount of royalties reported during negotiation of the subcontract exceeds \$250.)
- (m) 52.227-14 RIGHTS IN DATA - GENERAL, ALTERNATE II (DEC 2007) (To the Limited Rights Notice, add subparagraph (g)(2)(a)(i), "Use (except for manufacture) by support service contractors.")
- (n) 52.232-20 LIMITATION OF COST (APR 1984) (Applicable when this Contract becomes fully funded. Notes 1 and 2 apply.)
- (o) 52.232-22 LIMITATION OF FUNDS (APR 1984) (Applicable if this Contract is incrementally funded. When the Contract becomes fully funded, FAR § 52.232-20 shall apply in lieu of this clause. Notes 1 & 2 apply.)
- (p) 52.233-3 PROTEST AFTER AWARD (AUG 1996) (In the event MEDIMMUNE's customer has directed MEDIMMUNE to stop performance of the Work under the Prime Contract under which this Contract is issued pursuant to FAR Subpart 33.1, MEDIMMUNE may, by written order to Contractor, direct Contractor to stop performance of the Work called for by this Contract. "30 days" means "20 days" in paragraph (b)(2). Note 1 applies, except the first time "Government" appears in paragraph (f). In paragraph (f) add after "33.104(h)(1)" the following: "and recovers those costs from MEDIMMUNE.")
- (q) 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984) (Notes 4 and 7 apply.)
- (r) 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS (JAN 1997)
- (s) 52.242-15 STOP-WORK ORDER (AUG 1989) (Notes 1 and 2 apply.)
- (t) 52.242-15 STOP-WORK ORDER, ALTERNATE I (APR 1984) (Notes 1 and 2 apply) [Cost-Reimbursement]
- (u) 52.243-2 CHANGES - COST REIMBURSEMENT (AUG 1987) (Notes 1 and 2 apply.)
- (v) 52.243-3 CHANGES - TIME AND MATERIALS OR LABOR HOURS (SEP. 2000) (Notes 1 and 2 apply.)
- (w) 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984) (Note 2 applies.)
- (x) 52.243-7 NOTIFICATION OF CHANGES (APR 1984) (In paragraph (b), insert "five (5);" in paragraph (d), insert "ten (10)." Notes 1 and 2 apply.)
- (y) 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (MAR 2009)

- (z) 52.245-1 GOVERNMENT PROPERTY, ALTERNATE I (JUN 2007) (Notes 2 and 4 apply, except for paragraph (m). Substitute "Government-furnished or MEDIMMUNE-furnished property" for "Government-furnished property," except in paragraph (m). Paragraph (j) is deleted and replaced with the following: "Without additional cost or adjustment pursuant to the Changes clause of this Contract, within 30 days of the conclusion of the Contract, whether by termination for default, termination for convenience, or by its own terms, Contractor shall: (1) provide MEDIMMUNE with an inventory of Contractor Inventory; and, (2) at MEDIMMUNE'S direction, shall either: (i) ship Contractor Inventory to MEDIMMUNE or Government, f.o.b. destination; (ii) shall make reasonable efforts to return Contractor Inventory to Contractor's supplier(s) at a fair market price, minus a reasonable restocking fee; or (iii) dispose of Contractor Inventory. Paragraph (k) is deleted and replaced with the following: "Reserved."
- (aa) 52.249-6 TERMINATION (COST-REIMBURSEMENT (MAY 2004) (Notes 1 and 2 apply. In paragraph (d), "120 days" is changed to "60 days." In paragraph (e), "15 days" is changed to "30 days," and "45 days" is changed to "60 days." Paragraph (j) is deleted. Settlements and payments under this clause may be subject to approval of the Contracting Officer.)
- ALTERNATE IV (SEP 2004) (Applies when contract is time and materials or labor hour. Notes 1 & 2 apply.)
- (bb) 52.249-14 EXCUSABLE DELAYS (APR 1984) (Note 1 applies to (c). Note 2 applies. In (a)(2) delete "or contractual.")
2. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$10,000:
- (a) 52.222-36 **AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998) [NOT APPLICABLE WHEN BOTH THE PERFORMANCE OF THE WORK AND THE RECRUITMENT OF WORKERS WILL OCCUR OUTSIDE OF THE U.S.]**
- (b) 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)
3. The following FAR clause applies to this Contract if the value of this Contract equals or exceeds \$30,000.
- (a) 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (SEPT 2006) (Note 2 applies.)

4. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$100,000.
- (a) 52.203-3 GRATUITIES (APR 1984)
 - (b) 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984) (Note 1 applies.)
 - (c) 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO GOVERNMENT (SEPT 2006)
 - (d) 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)
 - (e) 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUND FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997) (Note 1 applies.)
 - (f) 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997) (Notes 1 and 2 apply.) (“MEDIMMUNE PROCUREMENT REPRESENTATIVE” substituted for “head of contracting activity” and “prime contractor” shall mean “SELLER.”)
 - (g) 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEPT 2007)
 - (h) 52.215-2 AUDIT AND RECORDS - NEGOTIATION (MAR 2009) (Note 6 applies.)
 - (i) 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997) (Delete paragraph (b) of the clause.)
 - (j) 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004) **[NOT APPLICABLE OUTSIDE U.S.]**
 - (k) 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEPT 2006) **[NOT APPLICABLE OUTSIDE U.S.]**
 - (l) 52.223-14 TOXIC CHEMICALS RELEASE REPORTING (AUG 2003) (Note 2 applies. Delete paragraph (e).)
 - (m) 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007) (Notes 2 and 4 apply.)
 - (n) 52.232-17 INTEREST (OCT 2008) (Note 1 applies.)
 - (o) 52.242-13 BANKRUPTCY (JUL 1995) (Notes 1 and 2 apply.)
 - (p) 52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)

5. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$550,00 or above:
- (a) 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (APR 2008) (Applicable if the Contractor is not a small business. Note 2 is applicable to subparagraph (c) only. The contractor's subcontracting plan is incorporated herein by reference.)
 - (b) 52.219-16 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999) (Applicable to all solicitations and contracts containing FAR § 52.219-9.)
6. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$650,00 or above:
- (a) 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997) (Notes 1, 2 and 4 apply. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)
 - (b) 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Notes 2 and 4 apply except the first time "Contracting Officer" appears in paragraph (d)(1). Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)
 - (c) 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)
 - (d) 52.215-13 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997)
 - (e) 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2004) (Applicable if this Contract meets the applicability requirements of FAR § 15.408(g). Note 5 applies.)
 - (f) 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JULY 2005) (Applicable if this Contract meets the applicability requirements of FAR § 15.408(j). Note 5 applies.)
 - (g) 52.242-3 PENALTIES FOR UNALLOWABLE COSTS (MAY 2001) (Notes 4 and 7 apply.)
7. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$5,000,000.

(a) 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (DEC 2008) (In section (b) substitute "MEDIMMUNE" for "Contracting Officer" the first time "Contracting Officer" is used.) (Applicable if the performance period is 120 days or more.)

(b) 52.203-14 DISPLAY OF HOTLINE POSTERS (DEC 2007)

8. HHSAR Clauses

(a) 352.202-1 DEFINITIONS - WITH ALTERNATE PARAGRAPH (h) (JAN 2006)

(b) 352.216-72 ADDITIONAL COST PRINCIPLES (JAN 2006)

(c) 352.223-70 SAFETY AND HEALTH (JAN 2006) (Note 5 applies.)

(d) 352.224-70 CONFIDENTIALITY OF INFORMATION (JAN 2006) (Note 2 applies to paragraph (c). Note 5 applies to paragraphs (f) and (g).)

(e) 352.232-9 WITHHOLDING OF CONTRACT PAYMENTS (JAN 2006)

(f) 352.270-5 KEY PERSONNEL (JAN 2006)

(g) 352.270-6 PUBLICATIONS AND PUBLICITY (JAN 2006) ("Project officer" means MEDIMMUNE PROCUREMENT REPRESENTATIVE." Note 3 applies.)

(h) 352.270-7 PAPERWORK REDUCTION ACT (JAN 2006) (Applies to any contract requiring collection of information from 10 or more persons that are not federal employees. Note 5 applies, and all communications to and from the Project Officer shall be through MEDIMMUNE.)

(i) 352.270-8 PROTECTION OF HUMAN SUBJECTS (JAN 2006) (Applicable to solicitations and resultant contracts involving human subjects. Note 2 applies to subparagraph (c). Consultation contemplated by subparagraph (c) shall not be required of MEDIMMUNE.) (Note: The Office for Human Research Protections (OHRP), Office of the Secretary (OS), Department of Health and Human Services (DHHS) is the office responsible for oversight of the Protection of Human Subjects and should replace Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH) wherever it appears in this clause.)

(j) 352.270-9 CARE OF LABORATORY ANIMALS (JAN 2006) (Applicable to solicitations and resultant contracts involving research on vertebrate animals. Note 2 applies. Consultation contemplated by subparagraph (d) shall not be required of

MEDIMMUNE.)

(k) 352.270-10 ANTI-LOBBYING (JAN 2006)

D. ADDITIONAL CLAUSES

1. 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees
Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)

(a) Definition. As used in this clause –

(1) “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

