

GENERAL CONDITIONS
LUMP SUM OR UNIT PRICE
CONTRACTS INVOLVING FIELD LABOR
E. I. DU PONT DE NEMOURS AND COMPANY
(INCORPORATED)

PLAINTIFF'S
EXHIBIT
DUP-2917

1. SITE AND LOCAL CONDITIONS—The work will be done under the coordination, scheduling, and inspection of Du Pont. The Contractor will be held as having examined the site in order to acquaint himself with local conditions. It is understood the Contractor accepts conditions at the site as of the date of this contract and no allowances will be made after contract award for any error or negligence in this connection.

If Contractor's work joins that of others done after the date of this contract, Contractor shall notify Du Pont immediately in writing of any condition which may affect completion of the work or the cost thereof. Absence of such notification shall constitute an acceptance of the conditions at the site.

2. CHANGES AND EXTRA WORK—Du Pont may, by written order, make changes in the work or authorize additional work. In all cases where the amount or character of the work is affected, an adjustment of the Contractor's compensation shall be made prior to performance of the change or additional work.

All extra work must be authorized in writing by Du Pont before said work is begun.

3. SAFETY AND HEALTH—Contractor shall: (a) provide at least 15 minutes per man per week for safety education; (b) comply with provisions of the Du Pont "Safety Information and Instructions for Contractors" and such other special safety provisions as may be set forth in the inquiry; (c) designate one person to be responsible for carrying out Contractor's obligation under this Article; (d) promptly report to Du Pont cases of death, occupational disease and disabling injury caused by work on the job.

If Du Pont notifies the Contractor of any non-compliance with the provisions of this Article and the action to be taken, the Contractor shall (immediately, if so directed, or in not more than 48 hours after receipt of such notice) make all reasonable efforts to correct the existing conditions. If the Contractor fails to comply promptly, Du Pont may stop all or any part of the work hereunder. When satisfactory corrective action is taken by the Contractor a start order will be issued by Du Pont. No part of the time lost due to any such work stoppage shall be made the subject for claim for extension of time or for excess costs or damages by the Contractor.

4. DELAYS—Neither party shall be liable for delays caused by fire, flood, accident, labor trouble, war, act of Government or any other cause reasonably beyond its control, but shall use all reasonable efforts to minimize the extent of the delay.

5. MEASUREMENTS—Unless otherwise specified in the inquiry, Contractor shall make all layouts. A base line and bench mark will be supplied by Du Pont.

Contractor shall provide reasonable facilities to enable Du Pont to set points and make measurements in connection with the inspection of the work and the computation of quantities under Unit Price Contracts.

6. SUPERVISION—Contractor shall keep on the work a competent supervisor, satisfactory to Du Pont, who shall be his authorized representative for all purposes under this contract. Contractor shall replace promptly a supervisor unsatisfactory to Du Pont but shall not otherwise replace the supervisor during the duration of the work without Du Pont's concurrence.

7. ROYALTIES AND PATENTS—Contractor shall hold and save Du Pont harmless from liability of any kind, including costs and expenses, for or on account of any alleged invention made or used by Contractor or any subcontractor in the performance of the work under this contract or involved in the use or disposal by or on behalf of Du Pont of any article, structure or apparatus supplied to Du Pont hereunder; provided, however, that this indemnification shall not be applicable to any infringement of patents of third parties which infringement results from acts of Contractor in compliance with specific written instructions furnished by Du Pont or which infringement is occasioned by the use of apparatus fabricated and/or installed by Contractor in accordance with plans and specifications furnished to Contractor by Du Pont.

8. COMPLIANCE WITH REGULATIONS—Contractor shall give such notices and secure and pay for temporary permits, licenses and easements required for his work. Du Pont will secure and pay for permits, licenses and easements required for permanent installations; Contractor shall furnish such assistance as Du Pont may require. Where the scope of Contractor's work includes the design of a structure or other facility requiring a permit, Contractor's drawings must contain the approval of a duly registered professional engineer if such approval is a condition precedent to obtaining the necessary permit.

Contractor shall comply with all laws, ordinances, rules and regulations of governmental authorities. He shall notify Du Pont promptly, in writing, if any drawings or specifications are at variance therewith. Contractor shall be responsible for any incurred cost in the event of his failure to give such notice.

9. WORKMANSHIP, MATERIALS AND EMPLOYEES—The work shall be executed in the best and most workmanlike manner by qualified and efficient workers, in strict conformity with the best standard practice. The site shall be kept free of waste and, on completion, left "broom clean." In case of dispute, Du Pont may remove waste at Contractor's expense.

Unless otherwise specified, all materials furnished by the Contractor shall be new and of the most suitable grade of their respective kinds for the application. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

Contractor shall be responsible for receiving, unloading, moving, storing and protecting his materials and equipment delivered to the job site and will customarily perform these functions with Contractor's personnel. Upon request made prior to shipment, Du Pont may agree at its option to do a portion of the aforementioned work in accordance with Du Pont's authorization and billing procedures.

In order to comply with Du Pont's requirement for over-all job physical orderliness, all equipment and all materials furnished by the Contractor or associated with his work at the construction site shall at all times be maintained so as to form no impediment to work access and shall not be left in a state conducive to personal injury or contributory to a potential fire loss. To accomplish the foregoing Contractor shall always store, stack, park or temporarily place all such materials and equipment "backed-up" to a wall, fence or similar line of reference as locations approved by Du Pont.

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Contractor shall have exclusive control of the manner and method of performing the work and shall be responsible for persons engaged on the work. None of said persons shall constitute employees of Du Pont.

While on Du Pont property, the Contractor's employees shall confine themselves to areas designated by Du Pont.

Contractor's employees will be subject to Du Pont's badge and pass requirements in effect at the site of the work.

10. TERMS OF PAYMENT—Ninety per cent (90%) of the Contractor's compensation shall be paid as it accrues in monthly installments based upon the percentage of completion of the work as determined from estimates submitted to and approved by Du Pont. Balance will be paid after completion, final acceptance by Du Pont and furnishing of "Release of Liens and Claims." Payment for extra work and overtime shall be made monthly in full at the request of the Contractor.

11. OVERTIME—If Du Pont requests work in excess of the work week specified through no fault of the Contractor, Contractor will pay the straight time portion of wage plus applicable taxes and Du Pont the premium time portion plus applicable taxes. No profit or overhead may be added to premium time. Insurance may be added only in states where insurance premiums are payable on overtime.

12. INSURANCE—Contractor agrees he has qualified or will qualify promptly and will make all payments under the terms of the Unemployment Compensation law of the State in which work is performed, and that he will require each of his subcontractors, if any, to do the same.

Contractor shall, at his expense, carry insurance of minimum limits as follows: (a) Workmen's Compensation—statutory, (b) Public Liability Bodily Injury—\$100,000/\$300,000, (c) Public Liability Property Damage—\$100,000/\$300,000, (d) Automotive Public Liability Bodily Injury (covering owned, hired and all classes of non-owned vehicles) \$100,000/\$300,000 and Property Damage \$25,000. If any subcontractors are employed, each subcontractor must carry the same types of insurance of the same minimum limits; and Contractor shall carry Contractor's Protective Public Liability Bodily Injury and Protective Property Damage insurance of the same minimum limits. Contractor shall maintain at Du Pont's expense such other insurance as may be required by Du Pont.

Certificates indicating this insurance is in effect and a statement that the insurance companies will not cancel without giving Du Pont 10 days' written notice, must be filed with DU PONT'S REPRESENTATIVE AT THE SITE before starting work and shall be subject to Du Pont's approval.

If automotive equipment is not used on the site, a letter so stating is acceptable in lieu of the automotive certificate. However, no vehicles of the Contractor or of his employees or subcontractors will be permitted upon the site at locations other than parking areas unless the certificate has been submitted.

Du Pont will provide Fire and Extended Coverage protection on (a) equipment and materials delivered to the site for incorporation in the work, and (b) on all partially completed work. Contractor shall be responsible for damage to his tools, construction equipment and other property not to be incorporated into the work. Contractor need not carry Builders' Risk insurance covering risk of loss borne by Du Pont.

13. TERMINATION—Du Pont may terminate this contract at any time. In such event a mutually satisfactory settlement shall be made, but if the parties fail to agree on the amount of the settlement, Contractor shall be entitled to recover costs and expenses incurred in connection with the performance of the contract at its termination plus a reasonable profit provided the amount recoverable shall in no event exceed the total contract price.

If Contractor should be adjudged a bankrupt, or should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should fail to make prompt payment to subcontractors or for materials or labor, or disregard laws, ordinances or other governmental regulations, or violate any provisions of the contract, Du Pont may, on giving 7 days' written notice, terminate Contractor's services, take possession of the premises and all things thereon and finish the work in any manner suitable to Du Pont. Contractor shall not be paid further until the work is finished. If cost exceeds the unpaid balance, Contractor shall pay Du Pont the difference.

14. CORRECTION—Contractor shall remove material and equipment furnished by Contractor which does not meet the specifications whether incorporated in the work or not, and re-execute his work at no cost to Du Pont, and shall pay for making good other work damaged by such replacement.

If Contractor does not remove condemned work promptly, Du Pont may do so and store materials or equipment at Contractor's expense. If Contractor does not pay the removal expense in 10 days, Du Pont may, on 10 days' written notice, sell the materials and equipment and account to Contractor for the proceeds, after deducting all expenses, which must be borne by Contractor.

Neither acceptance nor payment for work shall relieve Contractor of responsibility for faulty materials, equipment or workmanship. He shall remedy defects appearing within one year from the date of final payment and pay for resulting damage to other work. Du Pont shall give prompt notice of observed defects.

15. RELEASE OF LIENS AND CLAIMS—Contractor shall furnish Du Pont a complete "Release of Liens and Claims" before final payment is made. If any lien is filed or remains unsatisfied after final payment, Contractor shall indemnify Du Pont for all costs incurred in discharging such lien.

16. SUBCONTRACTS—Contractor shall not subcontract work without prior written consent of Du Pont. Rejection by Du Pont of any proposed subcontractor shall not obligate Du Pont for additional cost. If required, the Contractor will furnish Du Pont a copy of any subcontracts.

17. ASSIGNMENT—This contract shall not be assignable by either party without the prior written consent of the other.

18. COST ACCOUNTING—If required by Du Pont, the Contractor shall furnish in a form acceptable to Du Pont, a breakdown of the contract price for cost accounting purposes within 30 days from the date of award of the contract.

19. TRADE ANALYSIS INFORMATION—If required by Du Pont, after purchase, the Contractor shall furnish Du Pont, a breakdown by Manufacturers and dollar value for major materials entering into this contract.

20. TITLE—Where partial payments are being made to the Contractor, title to all equipment to be installed shall pass to Du Pont upon delivery at the site, and title to material shall pass to Du Pont upon being incorporated in the work. Du Pont shall insure equipment and material as provided in Article 12; Contractor shall be responsible for all other risks and for fulfillment of all other terms of the contract.

21. INCONSISTENCIES—In the event of a conflict between these General Conditions and the provisions of a Bid Form prepared by Du Pont, the Bid Form shall govern. In the event of a conflict between these General Conditions and the printed provisions of a Contractor's proposal (where a Bid Form is not used) these General Conditions shall govern.

22. INTEGRATION—This contract contains the entire agreement between the parties. There are no previous contemporaneous understandings, representations or warranties not set forth herein. No subsequent modifications of this contract shall be of any force or effect unless in writing, signed by the party claimed to be bound thereby.

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DEFENDANT'S
EXHIBIT

Exhibit 244
4/8/84

SPECIFICATION

DATE

PROJECT NO.

SPEC. NO.

PLANT

INFORMATION FOR CONTRACT INVOLVING FIELD LABOR

- A. The terms and conditions of Du Pont's "General Conditions Lump Sum or Unit Price Contracts Involving Field Labor" Form EN-1529, Revised 10/61, shall be applicable hereto and shall supersede any printed conditions forming a part of contractor's proposal.
- B. In addition to the provisions set forth in the first paragraph of Article 3 of the General Conditions (EN-1529), Rev. 10/61), contractor shall comply with all laws, ordinances, rules and regulations of governmental authorities, including but not limited to the State of Delaware Construction Safety Act, Title 19, Sect. 113, of the Delaware Code Annotated and the Safety Rule for Protection of Construction Operations promulgated by the State of Delaware Department of Labor and Industrial Relations. Non-compliance with the provisions of this paragraph may be treated in accordance with the second paragraph of Article 3 of the General Conditions, and may give rise to Du Pont's right to terminate as set forth in the second paragraph of Article 13 of the General Conditions.
- C. Contractor's work must be performed in accordance with the instructions set forth in Du Pont's "Safety Information and Instructions for Contractors", EN-1829, Revised 10/66. Contractor must comply with the safety program in effect at the Plant site.
- D. Emergency first aid facilities and services for job incurred injuries will be made available for the Contractor's use by Du Pont, providing an Agreement of Indemnification is executed by Contractor and returned to Du Pont. Form of Agreement EN-1796, is attached to and made a part of the inquiry document.
- E. Arrangements for site visit can be made through Du Pont's Mr. J. L. Byrd Phone Wilmington, Delaware WY 9-2445, at which time Contractor should familiarize himself specifically with such items as Plant Safety, work area, and storage area relative to work area.
- F. Reasonable storage space, for storage of materials will be made available to the Contractor by Du Pont.
- G. Drinking water and sanitary facilities shall be available to Contractor's force at nearby locations as placed for use of Du Pont employees.
- H. The work on this contract is to be performed on the basis of a single shift, eight hours per day, five days per week, Monday through Friday. (over)

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PHYSICIAN RESPONSIBILITIES

Each site physician should exercise the authority of the position for the express purpose of protecting the health of Du Pont employees and interests of the Du Pont Company. This includes being alert to prevent illness and injury and to detect early signs of disease or aggravation of existing conditions. One must be alert for any and all signs of beginning illness, particularly those which may result from occupational exposures, and institute measures and make recommendations to protect the health and well-being of employees. Opinions and recommendations should be based upon findings as determined by careful investigation of each and every incident, case or condition. Site physicians should evaluate the ailments of employees who present themselves for examination and guide them to adequate treatment.

All injuries or illnesses which develop as a consequence of Du Pont employment are Company responsibilities and must be handled as such, under the guidelines contained in this manual.

Site physicians are not expected to render special treatments which are beyond their field of training and experience. These cases should be referred to appropriate specialists, preferably those certified as specialists. However, all cases of occupational injury or disease, which are Company responsibilities, should be seen by site physicians at frequent intervals, regardless of who is rendering actual treatment. Occupational disease may best be handled throughout by site physicians within the limitation of study and training of each.

To be successful, each physician must gain the confidence and respect of both employees and management. This can only be achieved by providing unbiased, objective professional opinions and treatments to the best of one's ability.

EXHIBIT 4402-XX
DATE 7/7/92
LAWRENCE & J. F. HILL INC.
CERTIFIED COURT REPORTERS

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DATE 3/16/00
INFORMING & CONSULTING
OF THE MEDICAL DEPARTMENT

Section 3.1
Page 2

C. Informing Employees of Abnormal Findings

Applicants and employees must be informed of medical conditions and abnormalities that are detected during preemployment, periodic, or special medical examinations.

Our basic guideline is that applicants and employees be informed of any and all findings which:

- May have significance at the time of examination;
- Might later develop into a significant condition;
- May place the employee or applicant at higher risk for a significant condition;
- Might be considered significant by some other physician.

The reasons why we emphasize this guideline are threefold:

1. We believe that physicians are, and should be, obligated to inform applicants or employees of findings which may have health significance.
2. Certain national health standards mandate that the physician inform employees of findings of the physical examination required under the standard.
3. Our credibility is impaired when we don't tell an employee or applicant of a detected abnormality which is later noted by another physician, or by the examinee in reviewing his or her medical record, even though it might be reasonable to conclude that the abnormality is of little or no consequence.

Compromise of either our professional ability or credibility impairs our effectiveness in conducting occupational health programs. The Du Pont Company expects us to fulfill our obligations to employees with the same degree of competence and credibility as we would if the employee were a private patient.

The way an employee is told something is almost as important as what the employee is told. When an employee or applicant is informed of an abnormality or suspected abnormality, the physician should be as professional and sensitive to the feelings of the individual as possible. Nevertheless, in cases of borderline significance, the discussion may be difficult. The following two examples may help illustrate ways of handling the discussion.

If a Mechanical Department employee has a history of asbestos exposure and a chest x-ray consistent with an asbestos-related change is noted, the physician could state:

"You have some changes in your chest x-ray that may indicate scarring due to previous irritation of the lung or its lining. Since several things could have caused these changes, it will require more evaluation to be certain. It is possible that your previous exposure to asbestos could have caused these changes and we won't know until we do more tests and evaluations."

The physician should then make sure that he attempts to answer openly any questions the employee may ask, and to address the employee's unexpressed concerns. He may want to show the employee the x-ray and discuss it with him or her. Finally, the physician should explain the tests that are planned and the arrangements to obtain these.

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Another example, in which there is no likelihood of a work relationship, is that of an office employee with an abnormal liver function test on the SMA-12:

"You have an elevation of your blood bilirubin, alkaline phosphatase, and other enzymes (SGPT) which indicate that your liver may not be functioning properly. I don't know the significance of these findings. They may or may not be important. However, I believe these should be evaluated further. I recommend you go to your personal physician if you like. If you don't have a physician, I can give you the names of two or three physicians you can consult and I will help you make an appointment."

The most important factor in all of our dealings is to treat the employee or applicant as a patient and remember that because of trends in our society, the patient (employee or applicant) today has a heightened awareness of health hazards and a heightened concern for details of all medical findings.

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PHYSICIAN RESPONSIBILITIES

Each site physician should exercise the authority of the position for the express purpose of protecting the health of Du Pont employees and interests of the Du Pont Company. This includes being alert to prevent illness and injury and to detect early signs of disease or aggravation of existing conditions. One must be alert for any and all signs of beginning illness, particularly those which may result from occupational exposures, and institute measures and make recommendations to protect the health and well-being of employees. Opinions and recommendations should be based upon findings as determined by careful investigation of each and every incident, case or condition. Site physicians should evaluate the ailments of employees who present themselves for examination and guide them to adequate treatment.

(All injuries or illnesses which develop as a consequence of Du Pont employment are Company responsibilities and must be handled as such,) under the guidelines contained in this manual.

Site physicians are not expected to render special treatments which are beyond their field of training and experience. These cases should be referred to appropriate specialists, preferably those certified as specialists. However, all cases of occupational injury or disease, which are Company responsibilities, should be seen by site physicians at frequent intervals, regardless of who is rendering actual treatment. Occupational disease may best be handled throughout by site physicians within the limitation of ability and training of each.

To be successful, each physician must gain the confidence and respect of both employees and management. This can only be achieved by providing unbiased, objective professional opinions and treatments to the best of one's ability.

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The general duties of site physicians should include:

- following corporate guidelines to insure comprehensive and uniform occupational health programs
- evaluating the health status of each employee by performing preplacement and periodic physical examinations
- treating occupational injuries and illnesses to the best of their ability and referring, for appropriate treatment, those which are beyond their limitations
- being familiar with the operations at the site and the physical and mental requirements of each job
- visiting site operations frequently and studying them carefully for possible health hazards
- making recommendations to improve general site health conditions and prevent occupational illnesses and injuries
- maintaining constant supervision over all plant health regulations
- keeping complete, comprehensive, professional records of all health matters, particularly those related to occupational illnesses and injuries
- complying with all site, local and national regulations that relate to the practice of occupational medicine
- inspecting general sanitary conditions, including food preparation and eating areas, and making appropriate recommendations on a regular basis
- providing recommendations on biological monitoring, where appropriate
- serving as an active member of the site management team in the administration of an effective occupational health, safety and industrial hygiene program at the site.

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MEDICAL SURVEY

INTRODUCTION

Each Site Medical Department will be visited on a regular basis. These visits are designed to assist the Plant Management and Plant Physician to understand and comply with corporate policies and guidelines on occupational health and occupational medical practice. The visits will also help to initiate and maintain a useful working relationship between the Site Medical Department and the Corporate Medical Division.

A survey of the Site's Medical Department will be carried out during the formal visit. This should provide a forum for exchange of information. Medical staffing, services, facilities, supporting services, and programs will be reviewed and evaluated.

The surveyor should meet with Site Management and Medical Department personnel to review the medical program at the site. Assistance will be provided in establishing and maintaining practices consistent with the "Guidelines" and current standards of medical practice.

A checklist is provided to help the plants, Medical, Personnel, and Management review the present status of their health-related programs. A written report of the survey will be provided and will include a rating system using a scale of superior, above average, average, below average, and unsatisfactory.

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