

## FIXED-PRICE SERVICES - COMMERCIAL TERMS AND CONDITIONS

(Applicable for Purchases of Commercial Services  $\leq$  \$5,000,000)

### I. FAR CLAUSES INCORPORATED BY REFERENCE

The Jefferson Science Associates, LLC (JSA) has a prime contract with the U.S. Department of Energy (DE-AC05-06OR23177) that requires flow down of certain Federal Acquisition Regulation (FAR) and DOE Acquisition Regulation (DEAR) clauses. Accordingly, the following FAR's and agency FAR supplement clauses (DEAR's) referenced under Part I., below are incorporated herein by reference and made a part hereof. The FAR and DEAR clauses are the versions in effect as of the date of the prime contract. Except as may be expressly otherwise provided below in each of such clauses the term, "Contractor" shall mean JSA's Subcontractor, and the term "Contract" shall mean "this Subcontract/Purchase Order". The term "Contracting Officer" shall mean JSA's "Subcontracting Officer" where the intent of the clause is to give direct contracting authority over JSA's [sub] contractor to authorize and direct changes, process claims, adjudicate disputes, authorize terminations, and conduct subcontract administration responsibilities to maintain the rights of the parties under the [sub] Contract; otherwise, the term shall mean the DOE Contracting Officer having responsibility over JSA's prime contract referenced above. The term "Government" shall mean "JSA" except in cases where the action or responsibility is an inherently US Government function that cannot be performed by JSA. Contact the JSA Procurement Department or JSA Subcontracting Officer for clarification of JSA required clauses.

FAR 52.212-4 Contract Terms and Conditions- Commercial Items (Oct 2003)

FAR 52.219-8 Utilization of Small Business Concerns (May 2004)

FAR 52.222-21 Prohibition of Segregated Facilities (Feb 1999)

FAR 52.222-26 Equal Opportunity (Apr 2002)

FAR 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of The Vietnam Era, And Other Eligible Veterans (Dec 2001) > \$25,000

FAR 52.222-36 Affirmative Action for Workers with Disabilities (Jun 1998)

FAR 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) > \$25,000

FAR 52.222-39 Notification of Employee Rights Concerning Payment Of Union Dues Or Fees (Dec 2004)

FAR 52.225-1 Buy American Act - Supplies (Jun 2003) (Deviation) Applicable > \$2,500

FAR 52.225-13 Restrictions on Certain Foreign Purchases (Mar 2005)

FAR 52.247-64 Preference For Privately Owned U.S.-Flag Commercial Vessels (Apr 2003)

DEAR 952.204-71 Sensitive Foreign Nations Controls (Apr 1994)

The following FAR clauses are only applicable if the box is checked "☒".

- DEAR 970.5208-1 Printing (Dec 2000)
- FAR 52.222-1 Notice to the Government of Labor Disputes (Feb 1997)
- DEAR 970.5222-1 Collective Bargaining Agreements – Management and Operating Contracts (Dec 2000)
- DEAR 970.5223-4 Workplace Substance Abuse Programs At Doe Sites (Dec 2000)
- FAR 52.236-14 Availability and Use of Utility Services (Apr 1984) (Applicable for work on JLab Site)
- FAR 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (Apr 1984) (Applicable for work on JLab Site)
- FAR 52.222.41 Service Contract Act of 1965, as Amended (July 2005)
- FAR 52.222.43 Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (May 1989)
- FAR 52.219-6 Notice of Total Small Business Set-Aside (June 2003)
- FAR 52.219-9 Subcontracting Plan (Apr 2008) (> \$500,000)
- FAR 52.219-14 Limitations on Subcontracting (Dec 1996) (> \$100,000)
- FAR 52.217-2 Cancellation Under Multi-year Contracts (Oct 1997)
- FAR 52.232-7 Payments under Time-and-Materials and Labor-Hour Subcontracts (December 2002) with Alternative II
- FAR 52.245-1 Government Property (June 2007)
- FAR 52.245-2 Government Property Installation Operation Services (June 2007)

- FAR 52.245-9 Use and Charges (June 2007) [Applicable Only When Far 52.245-1 Government Property Is Marked ""]
- FAR 52.247-5 Familiarization with Conditions (Apr 1984)
- FAR 52.247-22 Subcontractor Liability for Loss of and/or Damage to Freight Other than Household Goods (Apr 1984)

## II. JSA CLAUSES

The following additional JSA clauses are included in this solicitation and/or purchase order/subcontract.

- 100. DISPUTES (JUNE 2006)** This Disputes clause is provided in full text and replaces the disputes provision contained in clause *FAR 52.212-4 Contract Terms and Conditions- Commercial Items subpart "(d) Disputes"* referenced above.

"All disputes between the parties pertaining to this purchase order/subcontract, which are not disposed of by agreement, shall be decided by litigation. Trial of any such litigation shall be confined exclusively to the Federal District Court for the Eastern District of Virginia, or and only in the event that the jurisdictional requirements for trial in Federal Court are not present, to the Circuit Court of the Commonwealth of Virginia in Newport News, Virginia.

The terms of this purchase order/subcontract shall be construed and interpreted in accordance with the body of law applicable to the procurement of goods and services by the Federal Government. Nothing in this clause shall grant to the Subcontractor by implication any statutory rights or remedies not expressly set forth in this Subcontract.

There shall be no interruption in the prosecution of the work, and the Subcontractor shall proceed diligently with the performance of this Subcontract pending final resolution of any dispute, claim, or litigation arising under or related to this Subcontract between the parties hereto or between the Subcontractor and lower-tier subcontractors or suppliers.

The Contract Disputes Act of 1978 (41 U.S.C. Sections 601-613) shall not apply to this Subcontract; provided, however, that nothing in this clause shall prohibit JSA, in its sole discretion, from sponsoring a claim of the Subcontractor for resolution under the provisions of its prime contract with DOE. In the event that Jefferson Science Associates, LLC (JSA) so sponsors a claim at the request of the Subcontractor, the Subcontractor shall be bound by the decision of the cognizant DOE Contracting Officer to the same extent and in the same manner as JSA."

- 101. ASSIGNMENT (JUNE 2006)**

JSA may assign this subcontract, in whole or in part, to DOE or to such party as DOE may designate to perform JSA's obligations hereunder. Upon receipt by Subcontractor of written notice that the DOE or a party so designated by the DOE has accepted an assignment of this subcontract, JSA shall be relieved of all responsibility hereunder and Subcontractor shall thereafter look solely to such assignee for performance of JSA's obligations. Subcontractor shall not assign or transfer this subcontract or any interest herein, or claims hereunder, without the prior written consent of JSA or JSA's assignee.

- 102. (RESERVED)**

- 103. HOLIDAYS (JUNE 2006)**

Jefferson Lab normally observes 11 days designated as JSA/Jefferson Lab holidays, and during the period between Christmas Eve and New Year's Day Jefferson Lab is normally closed. In addition, Laboratory management may close the Laboratory or modify operating hours at its discretion due to weather or other emergency. All Subcontractor personnel will follow the holiday and closure schedule posted by JSA/Jefferson Lab at [www.jlab.org/hr](http://www.jlab.org/hr) under "Resources- Holiday Calendar", except that Subcontractor may, upon prior approval of the JSA Subcontracting Officer or designated representative, perform work on a holiday or closure day at Jefferson Lab. The following boxes marked  apply to this purchase order/subcontract:

- No items shipped under this subcontract will be received on holiday or closure days.

- Items delivered under this subcontract will be received on holiday or closure days except on weather or other emergency closure days.
- The subcontractor will not normally be required to provide services on holiday or closure days. The subcontractor shall factor cost savings resulting from the December shutdown into the base price of the subcontract.
- JSA/Jefferson Lab may request a price adjustment for savings resulting from services not performed on weather or other emergency closure days.
- The services to be provided on holiday or closure days are those specifically described in

**104. SUBCONTRACT MODIFICATION AUTHORITY (JUNE 2006)**

Notwithstanding any other provisions of this subcontract, the Procurement Director or his designee shall be the only individual authorized to –(i) accept nonconforming work; (ii) waive any requirement of this subcontract; or modify any term or condition of this subcontract.

**105. FOREIGN NATIONS CONTROL (JUNE 2009)**

Subcontractors in all Jefferson Lab agreements and subcontracts requiring access to Jefferson Lab must provide valid government issued pictured identification for access to Jefferson Lab property. Subcontractors who receive JLab picture badges will certify their citizenship and place of birth status in writing. Non-U.S. citizens must provide USCIS (United States Citizenship and Immigration Service) documents for verification. The JLab SOTR (Subcontracting Officer's Technical Representative) and JLab Subcontracting Officer may resolve questions of citizenship and employment.

**III. SPECIAL PROVISIONS RELATED TO WORK UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

- If the box at the left is marked "" Special Provisions related to the American Recovery and Reinvestment Act Terms and Conditions (Rev 5/2009) are hereby made a part of this Purchase Order/Subcontract (The Recovery Act Terms and Conditions can be found on the JLab website ([http://www.jlab.org/div\\_dept/admin/business/procurement/ARRA.pdf](http://www.jlab.org/div_dept/admin/business/procurement/ARRA.pdf)))

If Special Provisions related to the American Recovery and Reinvestment Act Terms and Conditions apply [i.e., the box above is marked ""] See below for applicability of Clause 3.

"Clause 3- Required Use Of American Iron, Steel, And Other Manufactured Goods—Buy American Act—Construction Materials" Is , Is Not  *Applicable to this requirement.*