

Fixed-Price Construction Terms and Conditions

(Applicable for Purchases of Construction Services > \$2,000)

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 52.203-5 Covenant Against Contingent Fees (Apr 1984) Applicable if >\$100,000
- FAR 52.203-6 Restrictions on Subcontractor Sales to the Government (Jul 1995) Applicable if >\$100,000
- FAR 52.203-7 Anti-Kickback Procedures (Jul 1995) Applicable if >\$100,000
- FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Sep 2007) >\$100,000
- FAR 52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jul 1995)
- FAR 52.215-8 Order of Precedence (Oct 1997)
- FAR 52.219-8 Utilization of Small Business Concerns (May 2004)
- FAR 52.222-1 Notice to the Government of Labor Disputes (Feb 1997)
- FAR 52.222-3 Convict Labor (Jun 2003)
- FAR 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation (Jul 2005)
- FAR 52.222-6 Davis Bacon (Jul 2005)
- FAR 52.222-7 Withholding of Funds (Feb 1988)
- FAR 52.222-8 Payrolls and Basic Records (Feb 1988)
- FAR 52.222-9 Apprentices and Trainees (Jul 2005)
- FAR 52.222-10 Compliance With Copeland Act Requirements (Feb 1988)
- FAR 52.222-11 Subcontracts (Labor Standards) (Jul 2005)
- FAR 52.222-12 Contract Termination-Debarment (Feb 1988)
- FAR 52.222-13 Compliance with Davis Bacon and Related Act Regulations (Feb 1988)
- FAR 52.222-14 Disputes Concerning Labor Standards (Feb 1988)
- FAR 52.222-15 Certification of Eligibility (Feb 1988)
- FAR 52.222-21 Prohibition of Segregated Facilities (Feb 1999)
- FAR 52.222-26 Equal Opportunity (Apr 2002)
- FAR 52.222-27 Affirmative Action Compliance Requirements for Construction (Feb 1999)
- FAR 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of The Vietnam Era, And Other Eligible Veterans (Sep 2006) Applicable if > \$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 52.223-3 Hazardous Material Identification and Material Safety Data (Jan 1997)
- FAR 52.225-9 Buy American Act - Construction Materials (FEB 2009)

FAR 52.225-10 Notice of Buy American Act Requirement-Construction Materials (FEB 2009) Applicable for subcontracts containing the clause FAR 52.225-9 Buy American Act - Construction Materials

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

FAR 52.227-1 Authorization and Consent (Jul 1995) Applicable if > \$100,000

FAR 52.228-15 Performance and Payment Bonds (Nov 2006)

FAR 52.232-5 Payments Under Fixed Price Construction Contracts (Sep 2002)

FAR 52.236-2 Differing Site Conditions (Apr 1984)

FAR 52.236-3 Site Investigations and Drawings for Construction (Feb 1997)

FAR 52.236-5 Material and Workmanship (Apr 1984)

FAR 52.236-6 Superintendence by the Contractor (Apr 1984)

FAR 52.236-7 Permits and Responsibilities (Nov 1991)

FAR 52.236-8 Other Contracts (Apr 1984)

FAR 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (Apr 1984)

FAR 52.236-10 Operations and Storage Areas (Apr 1984)

FAR 52.236-11 Use and Possession Prior to Completion (Apr 1984)

FAR 52.236-12 Cleaning Up (Apr 1984)

FAR 52.236-14 Availability and Use of Utility Services (Apr 1984) (Applicable for work on JLab Site)

FAR 52.236-15 Schedules for Construction Contracts (Apr 1984))

FAR 52.236-17 Layout of Work (Apr 1984)

FAR 52.236-21 Specifications and Drawings for Construction (Feb 1997)

FAR 52.242-14 Suspension of Work (Apr 1984)

FAR 52.243-4 Changes (Jun 2007) Applicable if subcontract amount > \$100,000

FAR 52.243-5 Changes and Changed Conditions (Apr 1984) Applicable if subcontract amount ≤ \$100,000

FAR 52.244-6 Subcontracts for Commercial Items (Jul 2004)

FAR 52.246-12 Inspection of Construction (Aug 1996)

FAR 52.246-21 Warranty of Construction (Apr 1984)

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

FAR 52.248-3 Value Engineering (Construction) (Feb 2000) Applicable if > \$100,000

FAR 52.249-10 Default (Fixed-Price Construction) (Apr 1984)

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

DEAR 970.5227-5 Notice and Assistance Regarding Patent and Copyright Infringement (Aug 2002) Applicable if >\$100,000

DEAR 970.5227-6 Patent Indemnity – Subcontracts (Dec 2000)

DEAR 970.5227-8 Refund of Royalties (Aug 2002) (Applicable in subcontracts at any tier if royalties exceed \$250)

FAR Clauses Incorporated by Reference (Applicable only if box marked "☒")

FAR 52.215-12 Subcontractor Cost or Pricing Data (Oct 1997) May apply if award is > \$650,000

FAR 52.215-13 Subcontractor Cost or Pricing Data - Modifications (Oct 1997) May apply if award is > \$650,000

FAR 52.219-9 Small Business Subcontracting Plan (Apr 2008) Applicable if >\$1,000,000

FAR 52.223-14 Toxic Chemical Release Reporting (Aug 2003) Applicable if >\$100,000

FAR 52.219-14 Limitations on Subcontracting (Dec 1996)

FAR 52.230-2 Cost Accounting Standards (Apr 1998)

FAR 52.230-6 Administration of Cost Accounting Standards (Nov 1999)

Far 52.245-1 Government Property (June 2007)

Far 52.245-9 Use and Charges (June 2007) [Applicable only when FAR 52.245-1 Government Property is Marked "☒"]

- FAR 52.249-1 Termination of Convenience of the Government (Fixed Price) (Short Form) (Apr 1984)
Applicable if \leq \$100,000
- FAR 52.249-2 Termination of Convenience of the Government (Fixed Price) (May 2004) (Alt. I Sep 1996)
Applicable if $>$ \$100,000
- FAR 52.249-3 Termination of Convenience of the Government (Dismantling, Demolition or Removal of Improvements & $>$ \$100,000) (Fixed Price) (May 2004)
- DEAR 952.250-70 Nuclear Hazards Indemnity Agreement (Oct 2005)
- DEAR 970.5208-1 Printing (Dec 2000)
- DEAR 970.5223-4 Workplace Substance Abuse Programs at DOE Sites (DEC 2000)

II. JSA Clauses

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

JSA-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 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.

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.

JSA-102 (Reserved)

JSA-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 normally is 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 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 paragraphs apply if the box to the left is marked “”.

- 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 _____.

JSA-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.

JSA-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.

JSA-408 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL OPPORTUNITY FOR CONSTRUCTION (FEB 1999)

- a. The Offeror’s attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.
- b. The goals for minority and female participation, expressed in percentage terms for the Subcontractor’s aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority Participation for Each Trade	Goals for Female Participation for Each Trade
27.1%	6.9%

These goals are applicable to all the Subcontractor’s construction work performed in the covered area. If the Subcontractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the *Federal Register* in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

- c. The Subcontractor’s compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on
 - 1. its implementation of the Equal Opportunity clause,
 - 2. specific affirmative action obligations required by the clause entitled “Affirmative Action Compliance Requirements for Construction,” and
 - 3. its efforts to meet the goals.

The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Subcontractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor, or from project to project, for the sole purpose of meeting the Subcontractor’s goals shall be a violation of the contract, Executive Order 11246, as amended, and

the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

- d. The Subcontractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --
 - 1. Name, address, and telephone number of the subcontractor;
 - 2. Employer's identification number of the subcontractor;
 - 3. Estimated dollar amount of the subcontract;
 - 4. Estimated starting and completion dates of the subcontract; and
 - 5. Geographical area in which the subcontract is to be performed.

- e. As used in this Notice, and in any subcontract resulting from this solicitation, the "covered area" is Newport News, Virginia

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))

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.*

(END OF PROVISIONS)