

CONSULTANT AGREEMENT
JEFFERSON SCIENCE ASSOCIATES, LLC
628 Hofstadter Rd (Suite 5)
Newport News, Virginia 23606

Subcontract No:

This Consultant Agreement (Subcontract) is, by and between Jefferson Science Associates, LLC hereinafter referred to as "JSA" operator of the Thomas Jefferson National Accelerator Facility (hereinafter called "Jefferson Lab") and hereinafter called the "Consultant" (or Subcontractor).

WITNESSETH THAT:

WHEREAS JSA has entered into Contract DE-AC05-06OR23177 with the United States of America (hereinafter called the "Government") represented by the United States Department of Energy (hereinafter called the "Department" or "DOE") to perform certain work; and

WHEREAS the Consultant is willing to render certain services to JSA on a subcontract basis with respect to the work described in Article I, below, and Consultant represents that he/she has the requisite skills and expertise to perform the work;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. RESPONSIBILITY AND DURATION OF SUBCONTRACT

1. The Consultant shall furnish advisory and, consulting services as described in the attached Statement of Work.
2. JSA's Subcontracting Officer under this Consulting Agreement is . The Subcontracting Officer (or his/her designee) or JSA's Procurement Director have sole contracting authority to authorize and direct changes, process claims, adjudicate disputes, authorize terminations, and conduct subcontract administration responsibilities to maintain the rights of the parties under this agreement
3. The Subcontracting Officer's Technical Representative (SOTR) under this Consultant Agreement is and has authority to provide technical direction and information regarding the work described in the Attached Statement of Work. The consulting services provided to JSA shall be on a continuous or intermittent basis as specified by the SOTR; however, the SOTR does not have authority to govern subcontracting issues described in 2., above.
4. The Consultant Agreement shall be effective upon JSA's receipt of a fully executed agreement and shall continue through unless otherwise terminated as provided by the terms herein.

ARTICLE II. BASIS OF PAYMENT

The Consultant shall receive as full compensation for all services, including necessary travel time, performed hereunder, and as full reimbursement for travel and living expenses in connection with the performance of such services:

1. A fee of \$ per day. This fee shall include all secretarial, clerical and similar incidental services. For purposes of computation of a fee if priced on a daily basis, a day shall be considered as eight (8) hours; for fractions of days worked or spent in necessary travel, said fee will be pro-rated on a quarterly basis, fractional parts of any quarter of a day to be considered as a full quarter. Consultant is expected to invoice for partial days on a prorated basis.
2. When pre-approved by JSA, travel expenses (including costs of transportation and expenses while in travel status) will be reimbursed in accordance with Federal Travel Regulations (see Chapter 301—Temporary Duty (TDY) Travel Allowances published by the General Services Administration).
3. When pre-approved by JSA, cost of registration fees and other expenses incident to attendance at or participation in scientific, engineering or other technical meetings will be reimbursed to the extent such costs are allowable pursuant to the Federal Acquisition Regulations (FAR Part 31—Contract Cost Principles and Procedures).

ARTICLE III. PAYMENTS

- 1. The Consultant shall be paid upon submission of properly certified and correct invoice(s) submitted to:

Jefferson Science Associates (JSA)
Jefferson Lab
Attention: Accounts Payable, (VARC Room 9)
628 Hofstadter Road, Suite 4
Newport News, VA 23606

- 2. Payment terms are net 30 days. Consultant may include a discount for payment(s) less than 30 days.
- 3. The total value of the services, travel, and other reimbursable expenditures provided under this Consultant Agreement shall not exceed \$. Purchase Request # , fund account .

ARTICLE IV. REPORTS

During the course of the work under this subcontract and upon its completion, the Consultant shall furnish reports as requested by JSA summarizing his or her services hereunder.

ARTICLE V. TERMINATION OF SUBCONTRACT

Either party hereto may terminate this subcontract at any time by giving not less than thirty (30) days' prior written notice to the other party. Termination shall only affect the term of this subcontract and shall otherwise be without prejudice to the rights of the parties hereunder.

ARTICLE VI. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES.

- (a) The contractor (Consultant) shall comply with the requirements of "DOE Contractor Employee Protection Program" at 10 CFR Part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or-leased sites.
- (b) The contractor (Consultant) shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

ARTICLE VII. SENSITIVE FOREIGN NATIONS CONTROLS

- (a) In connection with any activities in the performance of this subcontract, the subcontractor agrees to comply with the "Sensitive Foreign Nations Controls" requirements attached to this Consultant Agreement relating to those countries, which may from time to time, be identified to the subcontractor by written notice as sensitive foreign nations. The subcontractor (Consultant) shall have the right to terminate its performance under this subcontract upon at least 60 days' prior written notice to the JSA Subcontracting Officer if the subcontractor determines that it is unable, without substantially interfering with its polices or without adversely impacting its performance to continue performance of the work under this Consultant Agreement as a result of such notification. If the subcontractor elects to terminate performance, the provisions of this subcontract regarding termination for the convenience of the Government shall apply.
- (b) The provisions of this clause shall be included in any subcontracts.

ARTICLE VIII. ASSIGNMENT (Modified April 2007)

JSA may assign this Consultant Agreement (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 Consultant 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 Consultant (Subcontractor) shall thereafter look solely to such assignee for performance of JSA's obligations. Consultant 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.

ARTICLE IX. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS

The Consultant, in performing services hereunder, shall comply with all applicable statutes, Executive Orders and regulations and shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin.

ARTICLE X. INDEPENDENT SUBCONTRACTOR

The Consultant represents that he or she is not an employee of another organization and concurrently performing work for that organization on a full- time annual basis under a cost-type subcontract with the Laboratory.

ARTICLE XI. DISCLOSURE OF INFORMATION

It is mutually expected that the activities under this subcontract will not involve Restricted Data or other classified information or material. It is understood, however, that if in the opinion of either party this expectation changes prior to the expiration or termination of all activities under this subcontract, said party shall notify the other party accordingly in writing without delay. In such event, the Consultant agrees to conform to all security regulations and requirements of the Department. The term "Restricted Data" as used in this article means all data concerning the design, manufacture, or utilization of atomic weapons, the productions of special nuclear material, or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, amended.

ARTICLE XII. DISPUTES (June 2006)

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 Consultant Agreement (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 Consultant (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 Consultant (Subcontractor), the Consultant (Subcontractor) shall be bound by the decision of the cognizant DOE Contracting Officer to the same extent and in the same manner as JSA.

ARTICLE XIII. JSA PROPERTY

All materials furnished by the Consultant to JSA or by JSA to the Consultant remain JSA property and shall be returned to JSA promptly if such is requested, including but not limited to, all documents, electronic files, photographs or videos related to this Agreement. The Consultant agrees to safeguard all such property and any equipment JSA may furnish to the Consultant.

ARTICLE XIV. INTELLECTUAL PROPERTY

Unless otherwise agreed in writing, the Consultant hereby specifically agrees that all creative work and commissioned writing and products of all the Consultant's activities on behalf of JSA in relation to this Agreement, specifically including copyrights and secondary rights, are JSA's sole property without limitation. The Consultant hereby grants to JSA all right, title or interest the consultant may have in any and all work the Consultant performs pursuant to this Agreement, or any extension hereof (written or unwritten), without limitation, for which JSA has provided the Consultant with compensation as herein prescribed (the "Work"). All such Work is to be considered "work for hire" and the Consultant grants to JSA absolute and unqualified rights to use such Work as JSA sees fit. The Consultant covenants to take such actions and execute such documents as may be necessary to obtain a valid license, copyright or patent for JSA in relation to the Work.

ARTICLE XV. CONFIDENTIALITY

The consultant has been informed and understands the confidentiality of this investigation/review. In consideration for the confidence and trust which JSA has placed and hereafter shall continue to place in the consultant, and other good and valuable consideration, receipt of which is hereby acknowledged the Consultant agrees the Consultant will not at any time, directly or indirectly, divulge to any party, unless otherwise directed by law or JSA, any of the information the Consultant hereafter or previously acquired about JSA or Jefferson Laboratory including but not limited to: work content, employee's information.

The Consultant further understands that this covenant of confidentiality includes and entirely embraces any secrets, data or information proprietary to JSA's employees and the Consultant understands that breach of this covenant is an act outside the scope of engagement.

ARTICLE XVI. ORGANIZATIONAL CONFLICTS OF INTEREST

- (a) **Purpose.** The primary purpose of this article is to aid in ensuring that the Consultant (Subcontractor) (1) is not biased because of its past, present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this subcontract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this subcontract.
- (b) **Scope.** The restrictions described herein shall apply to performance or participation by the Subcontractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Subcontractor") in the activities covered by this clause as a prime Subcontractor, Subcontractor, co-sponsor, joint venture, consultant, or in any similar capacity.

(1) **Technical consulting management support services.**

- (i) The Consultant (Subcontractor) shall be ineligible to participate in any capacity in JSA contracts, subcontracts, or proposals therefore (solicited or unsolicited) which stem directly from the Consultant's (Subcontractor) performance of work under this subcontract. Furthermore, unless so directed in writing by JSA, the Consultant (Subcontractor) shall not perform any technical consulting or management support services work under this subcontract on any of its products or services or the products or services of another firm if the Consultant (Subcontractor) is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the Consultant (Subcontractor) from competing for follow-on subcontracts for technical consulting and management support services.
- (ii) If the Consultant (Subcontractor) under this subcontract prepares a complete or essentially complete Statement of Work or specifications to be used in competitive procurements, the Consultant (Subcontractor) shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such products or services in such Statement of Work or specifications unless so directed in writing by JSA, in which case the restriction in this subparagraph shall not apply.
- (iii) Nothing in this paragraph shall preclude the Consultant (Subcontractor) from offering or selling its standard commercial items to JSA.

(2) **Access to and use of information.**

- (i) If the Subcontractor, in the performance of this subcontract obtains access to information, such as JSA or DOE plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released or otherwise made available to the public, the Consultant (Subcontractor) agrees that without prior written approval of JSA, it shall not: (a) use such information for any private purpose unless the information has been released or otherwise made available to the public; (b) compete for work for the department based on such information for a period of six (6) months after either the completion of this subcontract or until such information is released or otherwise made available to the public, whichever is first; (c) submit an unsolicited proposal to JSA or the DOE which is based on such information until one (1) year after such information is released or otherwise made available to the public; and (d) release such information unless such information has previously been released or otherwise made available to the public by the department.
- (ii) In addition, the Consultant (Subcontractor) agrees that to the extent it received or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this subcontract, it shall treat such information in accordance with any restrictions imposed on such information.
- (iii) The Consultant (Subcontractor) shall have, subject to patent, data, and security clauses of this subcontract, the right to use technical data it first produces under this subcontract when all requirements have been met.

(c) **Disclosure after award.**

- (1) The Consultant (Subcontractor) agrees that if after award it discovers an organizational conflict of interest with respect to this Consultant Agreement (subcontract), an immediate and full disclosure shall be made in writing to JSA that shall include a description of the action that the Consultant (Subcontractor) has taken or proposes to take to avoid or mitigate such conflicts.
- (2) In the event that the Subcontractor was aware of an organizational conflict of interest prior to the award of this subcontract and did not disclose the conflict to JSA, JSA may terminate the subcontract for default.

- (d) **Remedies.** For breach of any of the above restrictions or for nondisclosure or misrepresentation of any relevant facts required to be disclosed concerning this subcontract, JSA may terminate the subcontract for default, disqualify the Subcontractor for subsequent related contractual efforts and pursue such other remedies as may be permitted by law or this subcontract.
- (e) **Waiver.** Requests for waiver under this clause shall be directed in writing to JSA and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of JSA, JSA shall grant such a waiver in writing.

ARTICLE XVII. 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.

ARTICLE XVIII. SENSITIVE FOREIGN NATIONS CONTROL-JSA Supplement (June 2006)

Pursuant with clause DEAR 952.204-71 Sensitive Foreign Nations Controls referenced herein, 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.

ARTICLE XIX. 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 52.203-6 Restrictions on Subcontractor Sales to the Government (July 1995)

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

FAR 52.247-63 Preference for U.S.-Flag Carriers (June 2003)

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)

DEAR 970.5232-3 Accounts, Records, and Inspection (DEC 2000) (Alternate II) (DEC 2000) (DEVIATION)

FAR 52.222-36 Affirmative Action for Workers with Disabilities (June 1998) Applicable if >\$10,000

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

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

The following FAR and DEAR clauses are included herein if the total amount of this Consultant Agreement exceeds \$100,000

FAR 52.203-5 Covenant Against Contingent Fees (April 1984) Applicable if >\$100,000

FAR 52.203-7 Anti-Kickback Procedures (July 1995) (except subparagraph (c)(1) Applicable if >\$100,000

FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Sep 2007) Applicable if >\$100,000

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

DEAR 970.5227-4 Authorization and Consent (AUG 2002) Applicable if >\$100,000

IN WITNESS WHEREOF, the parties hereto have executed this subcontract as of the day and year first written above.

CONSULTANT	JEFFERSON SCIENCE ASSOCIATES, LLC
BY:	BY:
TITLE:	TITLE:
DATE:	DATE:
TELEPHONE:	TELEPHONE: (757) 269-
FACSIMILE:	FACSIMILE: (757) 269-7057

Vendor Mailing Address for Payments (To Be Completed by Consultant):

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