

JSA List of Clauses (Rev. July 2009)

JSA Clause Nos. 100 – 199.4 Clauses Potentially Applicable to All Subcontract Types

JSA-100 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 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 LABORATORY CLOSURE SCHEDULE (June 2006)

No items shipped under this purchase order/subcontract will be received on JSA's designated holidays or closures (see JSA's Holiday and Closure schedule posted at www.jlab.org/hr under "Resources - Holiday Calendar"). In addition, Laboratory management may close the Laboratory or modify operating hours at its discretion due to weather or other emergency.

☐ If the box to the left is marked "☒" Items delivered under this purchase order/subcontract will be received on holiday or closure days except on weather or other emergency closure days.

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-106 SUBCONTRACT ADMINISTRATION INFORMATION (June 2006)

- (a) _____ is designated as the Subcontracting Officer and _____ is designated as the Subcontract Administrator for the purpose of administering this subcontract.
- (b) _____ is designated as the lead Subcontracting Officer's Technical Representative (SOTR) and _____ is designated as the assistant SOTR for the purpose of inspection and acceptance of supplies/services under this Purchase Order/Subcontract. Inspection and acceptance by anyone other than the party identified above is not authorized. The SOTR will be responsible for technical assistance in administration of this subcontract. Duties will involve inspection, review, reporting, and certification of the Subcontractor's performance. The SOTR is also responsible to ensure that the subcontractor complies with all federal, state, DOE and Jefferson Lab environment, health and safety requirements. The SOTR will maintain performance records. When deficiencies are noted, they will be recorded by the SOTR and the information will be provided to the Subcontracting Officer for appropriate action.

- (c) Subcontract Correspondence Procedures. Correspondence submitted by the Subcontractor shall be subject to the following procedures:
- (1) Non-Technical Correspondence: The Subcontractor shall submit all non-technical correspondence to JSA's Subcontracting Officer [as identified in (a) above], JSA/Jefferson Lab, Procurement Department, 628 Hofstadter Road, Suite 5, Newport News, VA 23606.
 - (2) Technical Correspondence: The Subcontractor shall submit all technical correspondence to the Subcontracting Officer's Technical Representative [as identified in (b) above], JSA/Jefferson Lab, 12000 Jefferson Avenue, Newport News, VA 23606, with an information copy to the Subcontracting Officer.
 - (3) Invoices: The Subcontractor shall submit all invoices to:

JSA/Jefferson Lab
628 Hofstadter Road
Suite 4 (Accounts Payable)
Newport News, VA 23606

Invoices shall identify amount(s) by line item/cost elements or other format as may be required by JSA:

Subcontract Number
Subcontracting Officer (Name)
SOTR (Name)
 - (d) This clause does not authorize anyone other than JSA's Subcontracting Officer to commit JSA to changes in the terms of the subcontract.

JSA-107 INSURANCE (June 2006)

- (a) The Subcontractor shall, at its own expense, provide and maintain during the entire performance of this subcontract, at least the forms and minimum amounts of insurance required below, or elsewhere in the subcontract.

TYPE	AMOUNT
Worker's Compensation and Occupational Coverage in accordance with statutory limits.	Not less than \$100,000 each accident or disease
Commercial General Liability with minimum limits of:	\$2,000,000 general aggregate limit \$1,000,000 per occurrence. \$2,000,000 products and completed operations aggregate
Automobile Liability Insurance shall be required on the comprehensive form of policy and shall provide bodily injury liability and property damage liability covering the operation of all vehicles used in connection with performance of the subcontract.	Minimum Virginia Business Liability Requirements

- (b) Subcontractor's policies shall include JSA and the DOE as additional insureds, and shall by appropriate language provide that the insurance afforded by such policies is primary insurance, and that all rights of the insurer for contribution from other insurers of JSA and/or DOE and all rights of subrogation are waived.
- (c) Before commencing work under this subcontract, the Subcontractor shall certify to the Subcontracting Officer that the required insurance has been obtained by arranging an original certificate of insurance

to be provided to JLab by the carrier or broker. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting JSA's interest shall not be effective

- (1) For such period as the laws of the State in which this subcontract is to be performed prescribe, or
 - (2) Until 30 days after the insurer or the Subcontractor gives written notice to the Subcontracting Officer, whichever period is longer.
- (d) The Subcontractor shall insert the substance of this clause, including this paragraph (d), in lower tier subcontracts under this subcontract that require work on the Jefferson Lab installation; and shall require lower tier subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the subcontract. The Subcontractor shall maintain a copy of all lower tier subcontractors' proofs of required insurance, and shall make copies available to the Subcontracting Officer upon request.

JSA-108 AVAILABILITY OF FUNDS (June 2006)

Funds are not presently available for this subcontract. JSA's obligation under this subcontract is contingent upon the availability of appropriated Government funds from which payment for subcontract purposes can be made. No legal liability on the part of JSA (and/or Government) for any payment may arise until funds are made available to the Subcontracting Officer for this subcontract and until the Subcontractor receives notice of such availability, to be confirmed in writing by the Subcontracting Officer.

JSA-109 AVAILABILITY OF FUNDS BEYOND SPECIFIED DATE

Funds are not presently available for performance under this Subcontract beyond _____. JSA's obligation for performance of this subcontract beyond the date is contingent upon the availability of appropriated funds from which payment for subcontract purposes can be made. No legal liability on the part of JSA or the Government for any payment may arise for performance under this subcontract beyond _____, until funds are made available to the Subcontracting Officer for performance and until the Subcontractor receives notice of availability, to be confirmed in writing by the Subcontracting Officer.

JSA-110 RELEASE OF INFORMATION (June 2006)

Information regarding this Subcontract or the undertaking or any data developed hereunder shall not be released, and the name of JSA, Thomas Jefferson National Accelerator Facility, or Jefferson Lab shall not be used in any publications, news releases, advertising, speeches, technical papers, photographs and other releases of information, without prior written approval from JSA.

JSA-111 ADVANCE PAYMENT (June 2006)

- (a) Requirements for Payment. Advance payments may be made under this subcontract upon submission of properly certified invoices or vouchers by the Subcontractor, and approval by the JSA Subcontracting Officer. The amount of the invoice or voucher submitted plus all advance payments previously approved shall not exceed \$_____.
- (b) Repayment to JLab. At any time, the Subcontractor may repay all or part of the funds advanced by JSA. Whenever requested in writing to do so by the Subcontracting Officer, the Subcontractor shall repay to JSA any part of unliquidated advance payments considered by the Subcontracting Officer to exceed the Subcontractor's current requirements or the amount specified in Paragraph (a) of this Article.

- (c) Maximum Payment. When the sum of all unliquidated advance payments, unpaid interest charges, and other payments equal the total estimated cost of \$_____ for work under this subcontract, JSA shall withhold further payments to the Subcontractor. On completion or termination of the subcontract, JSA shall deduct from the amount due to the Subcontractor all unliquidated advance payments and all interest charges payable. If previous payments to the Subcontractor exceed the amount due, the excess amount shall be paid to JSA on demand. For purposes of this paragraph, the estimated cost shall be considered to be the stated estimated cost, less any subsequent price reductions under this subcontract, plus any increases that do not, in aggregate, exceed \$_____. The estimated cost shall include, without limitation, any reimbursable cost (as estimated by the Subcontracting Officer) incident to a termination for the convenience of JSA. Any payments withheld under this paragraph shall be applied to reduce the unliquidated advance payments. If full liquidation has been made, payments under the subcontract shall resume.
- (d) Default.
- (1) If any of the following events occur, JSA may, by written notice to the Subcontractor, withhold further payments on this subcontract:
 - (i) Termination of this subcontract for a fault of the Subcontractor.
 - (ii) A finding by the Subcontracting Officer that the Subcontractor has failed to: (a) observe any of the conditions of the advance payment terms; (b) comply with any material term of this subcontract; (c) make progress or maintain a financial condition adequate for performance of this subcontract; (d) limit inventory allocated to this subcontract to reasonable requirements; or (e) avoid delinquency in payment of taxes or the costs of performing this subcontract in the ordinary course of business.
 - (iii) The appointment of a trustee, receiver, or liquidator for all or a substantial part of the Subcontractor's property, for the institution of proceedings by or against the Subcontractor for bankruptcy, reorganization, arrangement, or liquidation.
 - (iv) The commission of an act of bankruptcy.
 - (2) If any of the events described in Subparagraph (d)(1) of this Article continue for thirty (30) days after the written notice to the Subcontractor, JSA may demand immediate repayment by the Subcontractor of the unliquidated balance of advance payments.
 - (3) JSA may take the above at its discretion and without limiting any other rights of JSA.
- (e) Representations and Warranties. The Subcontractor represents and warrants the following:
- (1) None of the terms in this clause conflict with the authority under which the Subcontractor is doing business or with the provision of any existing indenture or subcontract of the Subcontractor.
 - (2) The Subcontractor has the power to enter into this subcontract and accept advance payments, and has taken all necessary action to authorize the acceptance under the terms of this subcontract.
 - (3) The assets of the Subcontractor are not subject to any lien or encumbrance of any character except for current taxes not delinquent, and except as shown in the financial statements furnished by the Subcontractor. There is no current statement of claims under any subcontract or contract affected by these advance payment provisions.
 - (4) All information furnished by the Subcontractor to the Subcontracting Officer in connection with each request for advance payments is true and correct.
 - (5) These representations and warranties shall be continuing and shall be considered to have been repeated by the submission of each invoice for advance payments.

JSA-112 KEY PERSONNEL (June 2006)

- (a) The personnel listed below or elsewhere in this subcontract are considered essential to the work being performed under this subcontract. Before removing, replacing, or diverting any of the listed or specified personnel, the Subcontractor must: (1) Notify the Subcontracting Officer reasonably in advance; (2) submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on this subcontract; and (3) obtain the Subcontracting Officer's written approval.
- (b) Notwithstanding the foregoing, if the Subcontractor deems immediate removal or suspension of any of the listed or specified personnel is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity, the Subcontractor may remove or suspend such person at once, but must notify the Subcontracting Officer prior to or concurrently with such action.
- (c) The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the subcontract to add or delete personnel.

JSA-113 SUBCONTRACT MINIMUM/MAXIMUM

This is an Indefinite Delivery/Indefinite Quantity (IDIQ) firm fixed price subcontract.

- (a) Subcontract Minimum --JSA will issue task order(s) for at least _____worth of services. Exercise of the option to extend the term of the subcontract does not reestablish the subcontract minimum.
- (b) Subcontract Maximum – There is no subcontract maximum.

JSA-114 FUNDING PROCEDURES

Funding data will be set forth on individual task orders issued hereunder. A guaranteed minimum of _____ in orders will be issued under this subcontract. The _____ will be liquidated through the initial task order or subsequent orders, if required.

JSA-115 ON-SITE WORK REQUIREMENTS (Jan 2008)

- (a) **Work Area Boundaries** – The limits of the construction/service work area are shown on the site plan or will be otherwise identified to the subcontractor. The subcontractor shall keep all work activities within the limits of this area.
- (b) **Restricted Access Areas** - Access to experimental and certain technical work areas of Jefferson Lab is restricted to personnel who have completed requisite EH&S training and/or orientation, or who are accompanied by a qualified continuous escort. Subcontractors shall comply with all site access restrictions, including temporary postings for special hazards and access control measures. See Division 1 Section "Safety and Health Requirements" for additional requirements.
- (c) **Joint-Occupancy** – The work under this subcontract may be accomplished under joint occupancy. Joint occupancy consists of the common use of the area by the Subcontractor, JSA and other JSA subcontractors. In the event of a dispute between the Subcontractor and other JSA subcontractors regarding the priority of the use of the area, the decision of the Subcontracting Officer shall govern. The Subcontractor shall provide access to each jointly occupied area. Joint occupancy does not constitute possession or acceptance by the Subcontracting Officer. No additional compensation will be made for actions resulting from this required cooperation. The Subcontractor may be required to relocate stored materials and/or equipment in jointly occupied areas upon request by the Subcontracting Officer at no additional cost to JSA. The subcontractor is required to submit a detailed plan for each work area, identifying equipment type and location, material storage, rigging methods, and erection procedures.

- (d) **Smoking-Restricted Workplace** - The Thomas Jefferson National Accelerator Facility (Jefferson Lab) is a Smoking-Restricted Workplace. Smoking is not permitted in any building or JSA vehicle or motor equipment. Smoking is permitted only outdoors away from building entrances including the CEBAF Center deck. All tobacco waste products shall be placed in proper receptacles.
- (e) **Traffic and Parking** – All personnel shall obey all traffic signs. Vehicles are not permitted to pass another vehicle or cart anywhere on site. Parking near buildings and most work sites is very limited. Subcontractor's employees and workers shall park only in designated parking spaces.
- (f) **Temporary Controls** - Provide temporary barricades, warning signs, and lights to protect persons on site from hazards that are associated with the work that is being performed.
- (g) **Conduct of Subcontractor Personnel and Removal** - If any employee violates any of the standards specified in this subcontract, or acts in any way contrary to the public interest, the Subcontracting Officer may require the employee be removed from Jefferson Lab premises and deny further access to Laboratory facilities. You must replace the employee immediately and maintain continuity of service at no additional cost to the Laboratory. Any such removal will not be cause for an excusable delay, nor will it be deemed a basis for an equitable adjustment to price, delivery or any other provision of this Subcontract.
- (h) **Inspections, Surveys, Tours and Audits** - In addition to periodic inspections by Jefferson Lab's Subcontracting Officer and SOTR, there will be various inspections, surveys, tours and audits conducted by others. These visits are conducted at all Government installations, whether subcontractor operated or not to assure full compliance with established procedures. These inspections, surveys, tours, and audits could be conducted by Jefferson Lab Personnel, the General Accounting Office (GAO), the Inspector General (IG), Department of Energy or other local, state, and Federal agencies. It shall be the Subcontractor's responsibility to provide full cooperation, guidance and assistance, and take any follow-up actions directed by the Subcontracting Officer. The results of these inspections and audits may be used in evaluating Subcontractor's performance.
- (i) **Employee Concerns Program (ECP)** – The JLab Employee Concerns Program is available to subcontractor personnel who have concerns with an aspect of JLab's operation, safety, or management and cannot resolve it through their JLab technical point of contact or Procurement Subcontracts Representative. In these cases, they can access the ECP Hotline at 1-888-296-8301 or the Website at <http://www.jsa.ecp.ethicspoint.com>.

JSA-116 TRAVEL

If specifically authorized, subcontractor may be reimbursed for actual travel costs not to exceed the amount specified in the Schedule. To be reimbursed, travel arrangements must be made in accordance with U.S. Federal Travel Regulations. Invoices for travel costs must be supported by receipts. Links to relevant sites including local accommodations in the Jefferson Lab area can be found at the following addresses:

http://www.jlab.org/div_dept/cfo/travel/
<http://www.jlab.org/visitors/visiting/accom.html>

JSA-117 REQUIREMENTS SUBCONTRACT

- (a) This is a requirements subcontract with no guaranteed minimum or maximum quantities. The quantities identified in the Bid Schedule are estimates only. The estimated quantity is not a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable or normal. JSA/Jefferson Lab shall not be held liable for estimated quantities not achieved under each line item in the Bid Schedule.

- (b) Jefferson Lab personnel authorized to order under this Subcontract will be designated by the Subcontracting Officer. All requirements must be ordered by authorized Jefferson Lab representatives, including weekend and holiday requirements. Payment for deliveries or performance of services requested by personnel other than those designated may not be honored.

JSA-118 BADGES

- (a) The following Subcontractor personnel are required to have a Photo I.D. badge for access to Jefferson Lab. Each person requiring a badge shall provide a completed Subcontractor Registration Form (the form will be provided by JLab) and complete required training prior to being issued a badge. After a badge is issued, it requires 24 hours to become activated. Badges are issued in the VARC building, Monday through Friday between 8:30 a.m. to 12:00 p.m. and between 2:00 p.m. to 4:30 p.m. Call 757-269-7400 to set up an appointment.
- (b) All badges must be returned to Jefferson Lab upon the completion of the work, or when a person will no longer be doing work on the Jefferson Lab site.

JSA-119 CANCELLATION CEILING

Pursuant to the Cancellation under Multi-year Contracts clause (FAR 52.217-2), JSA has determined that the cancellation ceiling for this Subcontract is **\$0.00**.

JSA-120 MILESTONE PAYMENTS

- (a) JSA will authorize milestone payments pursuant with the Milestone Payment Schedule and funding availability. JSA's approval and payment of requests for milestone payments is conditioned on the subcontractor substantiating successful accomplishment of the event or performance criterion for which payment is being requested. JSA may suspend or reduce milestone payments after finding evidence of the following:
1. Subcontractor failed to comply with any material requirement of this subcontract;
 2. Performance of this subcontract is endangered by:
 - i. Subcontractor's failure to make progress; and
 - ii. Subcontractor's financial condition.
 3. Subcontractor is delinquent in payment of costs of performing this subcontract in the ordinary course of business; or
 4. The amount of the milestone payment exceeds the fair value or reasonable cost of the milestone payment.
- (b) After the Subcontractor completes the work specified for each milestone, the Subcontractor shall submit a properly executed voucher for payment. The Subcontracting Officer shall approve payment of 90% of the amount established for completing the milestone as soon as practicable, unless the Subcontracting Officer determines that suspension of payments or a reduced amount is warranted under paragraph (a) above. When the Subcontracting Officer determines that the work required by the milestone has been completed satisfactorily, and when the Subcontracting Officer determines that the amount retained is in excess of the amount adequate for protection of JSA, the Subcontracting Officer may release the excess amount to the Subcontractor. Acceptance of the work as being

complete will normally occur within 2 weeks following the Subcontractor providing the information required to support completion of the milestone event.

- (c) Title of the property described under this clause shall vest in JSA/Government. Vestiture shall occur immediately upon the date of the first milestone payment under this subcontract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this subcontract.
- (d) "Property" as used in this clause, includes all of the below described items acquired or produced by the Subcontractor that are or should be allocable or properly chargeable to this subcontract.
 - 1. Parts, material, inventories, and work in process.
 - 2. Special tooling and special test equipment to which JSA/Government is to acquire title under any other clause of this subcontract.
 - 3. Drawings and technical data, to the extent the subcontract is required to deliver them to JSA/Government by other clauses of this subcontract.
- (e) Before delivery to and acceptance by JSA, the subcontractor shall bear the risk for loss for property, the title of which vests in JSA/Government, except to the extent that JSA/Government expressly assumes the risk.

JSA 199.0-199.4 - SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (May 2009)

JSA 199.1-General

PREAMBLE:

Work performed under this contract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009. Contractors should begin planning activities for their first tier subcontractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR). Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related Guidance. For projects funded by sources other than the Recovery Act, Contractors should plan to keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act. The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning the how and where for the new reporting requirements. The Contractor will be provided these details as they become available. The Contractor must comply with all requirements of the Act. If the contractor believes there is any inconsistency between ARRA requirements and current contract requirements, the issues will be referred to the Contracting Officer for reconciliation. Be advised that special provisions may apply to projects funded by the Act relating to: Reporting, tracking and segregation of incurred costs; Reporting on job creation and preservation; Publication of information on the Internet; Protecting whistleblowers; and Requiring prompt referral of evidence of a false claim to the Inspector General.

DEFINITIONS:

For purposes of this clause, "Covered Funds" means funds expended or obligated from appropriations

under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the contract and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to Covered Funds – the contractor or subcontractor, as the case may be, if the contractor or subcontractor is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

A. Flow Down Provision

This clause must be included in every first-tier subcontract.

B. Segregation and Payment of Costs

Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. Where Recovery Act funds are authorized to be used in conjunction with other funding to complete projects, tracking and reporting must be separate from the original funding source to meet the reporting requirements of the Recovery Act and OMB Guidance. Invoices must clearly indicate the portion of the requested payment that is for work funded by the Recovery Act. Note: For contractors currently using drawdown on a letter of credit, the current procedure remains in effect and is used for Recovery Act activity in lieu of invoicing.

C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Wage Rates

All laborers and mechanics employed by contractors **and subcontractors** on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See <http://www.dol.gov/esa/whd/contracts/dbra.htm> .

E. Publication

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board (the Board). The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

F. Registration requirements

Contractor shall ensure that all first-tier subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR) no later than the date the first report is due under FAR 52.204-11 American Recovery and Reinvestment Act – Reporting Requirements.

G. Utilization of Small Business

Contractor shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.

JSA 199.2- WHISTLEBLOWER PROTECTION

Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009, is hereby included as follows: FAR 52.203-15 – Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Mar 2009) (a) The Contractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5). (b) The Contractor shall include the substance of this clause including this paragraph (b) in all subcontracts. (End of clause)

JSA 199.3- REQUIRED USE OF AMERICAN IRON, STEEL, AND OTHER MANUFACTURED GOODS—BUY AMERICAN ACT—CONSTRUCTION MATERIALS WITH ADDITIONAL INTRODUCTORY APPLICABILITY STATEMENT, IS INCLUDED AS FOLLOWS:

The following FAR clause FAR 52.225-21 is only applicable to projects funded by the Recovery Act **FAR 52.225-21--Required Use of American Iron, Steel, and Other Manufactured Goods--Buy American Act--Construction Materials (Mar 2009)**

(a.) Definitions as used in this clause—

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material. **“Domestic construction material” means—**

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States

“Foreign construction material” means a construction material other than a domestic construction material. **“Manufactured construction material”** means any construction material that is not unmanufactured construction material. **“Steel”** means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. **“United States”** means the 50 States, the District of Columbia, and outlying areas. **“Unmanufactured construction material”** means raw material brought to the construction site for incorporation into the building or work that has not been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials

(b.) Domestic preference

- (1) This clause implements—

(i.) Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5), by requiring, unless an exception applies, that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and
(ii.) The Buy American Act (41 U.S.C. 10a-10d) by providing a preference for unmanufactured domestic construction material.

(2) The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraph (b)(3) and (b)(4) of this clause.

(3) This requirement does not apply to the construction material or components listed by the Government as follows: **NONE**

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that—

(i.) The cost of domestic construction material would be unreasonable.

(A) The cost of domestic iron, steel, or other manufactured goods used as construction material is unreasonable when the cumulative cost of such material will increase the cost of the contract by more than 25 percent;

(B) The cost of unmanufactured construction material is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii.) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii.) The application of the restriction of section 1605 of the Recovery Act or the Buy American Act to a particular construction material would be inconsistent with the public interest.

(c.) Request for determination of inapplicability of Section 1605 of the Recovery Act or the Buy American Act.

(1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—

(A) A description of the foreign and domestic construction materials; (B) Unit of measure; (C) Quantity;

(D) Cost; (E) Time of delivery or availability; (F) Location of the construction project;

(G) Name and address of the proposed supplier; and (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause.

(ii.) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this clause.

(iii.) The cost of construction material shall include all delivery costs to the construction site and any applicable duty.

(iv.) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to section 1605 of the Recovery Act or the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material is noncompliant with section 1605 of the American Recovery and Reinvestment Act or the Buy American Act.

(d.) Data

To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers: Foreign and Domestic Construction Materials Cost Comparison

Construction material description Unit of measure Quantity Cost (dollars)*

Item 1:

Foreign construction material

Domestic construction material

Item 2

Foreign construction material
Domestic construction material

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.] [Include other applicable supporting information.] *Include all delivery costs to the construction site.]

JSA 199.4 ACCOUNTS, RECORDS, AND INSPECTION (DEC 2000)

If DEAR 970 5232-3, Accounts, Records, and Inspection (DEC 2000) is included in terms and conditions referenced elsewhere in this purchase order/subcontract delete Paragraph (h) (1) and replace it with the following: "(h) Comptroller General (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the contractor's or subcontractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions." **All other terms and conditions remain unchanged.**

JSA-200 **TIME OF DELIVERY (June 2006)**

(a) JSA requires delivery to be made according to the following schedule:

REQUIRED DELIVERY SCHEDULE

ITEM NUMBER	QUANTITY	WITHIN DAYS AFTER DATE OF SUBCONTRACT

JSA will evaluate equally, as regards time of delivery, offers that propose delivery of each quantity within the applicable delivery period specified above. Offers that propose delivery that will not clearly fall within the applicable required delivery period specified above, may be considered nonresponsive and rejected. JSA reserves the right to award under either the required delivery schedule or the proposed delivery schedule, when an offeror offers an earlier delivery schedule than required above. If the offeror proposes no other delivery schedule, the required delivery schedule above will apply.

OFFEROR'S PROPOSED DELIVERY SCHEDULE

ITEM NUMBER	QUANTITY	WITHIN DAYS AFTER DATE OF SUBCONTRACT

- (b) Attention is directed to the subcontract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful offeror, results in a binding contract. JSA will mail or otherwise furnish to the offeror an award or notice of award not later than the day award is dated. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Subcontracting Officer through the ordinary mails. However, JSA will evaluate an offer that proposes delivery based on the Subcontractor's date of receipt of the subcontract or notice of award by adding five (5) days for delivery of the award through the ordinary mails. If, as so computed, the offered delivery date is later than the required delivery date, the offer may be considered nonresponsive and rejected.

If either Alternate I or Alternate II paragraph is checked then the indicated paragraph (b) below is substituted for (b) above.

☐ Alternate I

- (b) The delivery dates or specific periods above are based on the assumption JSA will make award by _____. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date that the subcontract is in fact awarded. Attention is directed to the subcontract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding subcontract. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Subcontracting Officer through the ordinary mails.

☐ Alternate II

- (b) The delivery dates or specific periods above are based on the assumption that the successful offeror will receive notice of award by _____. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date that the Subcontractor promptly acknowledges receipt of notice of award.

☐ Alternate III

Paragraph (b) of the basic clause, above, is not applicable to this subcontract.

JSA-201 DESIRED AND REQUIRED TIME OF DELIVERY (June 2006)

- (a) JSA desires delivery to be made according to the following schedule:

DESIRED DELIVERY SCHEDULE

ITEM NUMBER	QUANTITY	WITHIN DAYS AFTER DATE OF SUBCONTRACT

If the offeror is unable to meet the desired delivery schedule, it may, without prejudicing evaluation of its offer, propose a delivery schedule below. However, the offeror's proposed delivery schedule must not extend the delivery period beyond the time for delivery in JSA's required delivery schedule as follows:

REQUIRED DELIVERY SCHEDULE

ITEM NUMBER	QUANTITY	WITHIN DAYS AFTER DATE OF SUBCONTRACT

Offers that propose delivery of a quantity under such terms or conditions that delivery will not clearly fall within the applicable required delivery period specified above, may be considered nonresponsive and rejected. If the offeror proposed no other delivery schedule, the desired delivery schedule above will apply.

OFFEROR'S PROPOSED DELIVERY SCHEDULE

ITEM NUMBER	QUANTITY	WITHIN DAYS AFTER DATE OF SUBCONTRACT

- (b) Attention is directed to the subcontract Award provision of the solicitation that provides a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding subcontract. JSA will mail or otherwise furnish to the offeror an award or notice of award not later than the day the award is dated. Therefore, the offeror shall compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Subcontracting Officer through the ordinary mails. However, JSA will evaluate an offer that proposes delivery based on the Subcontractor's date of receipt of the subcontract or notice of award by adding five (5) days for delivery of the award through the ordinary mails. If, as so computed, the offered delivery date is later than the required delivery date, the offer may be considered non responsive and rejected.

If either Alternate I or Alternate II paragraph is checked then the indicated paragraph (b) below is substituted for (b) above.

☐

Alternate I

- (b) The delivery dates or specific periods above are based on the assumption JSA will make award by _____. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date the subcontract is in fact awarded. Attention is directed to the subcontract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding contract. Therefore, the offeror shall compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Subcontracting Officer through the ordinary mails.

☐

Alternate II

- (b) The delivery dates or specific periods above are based on the assumption the successful offeror will receive notice of award by _____. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date the Subcontractor receives notice of award; provided, the Subcontractor promptly acknowledges receipt of notice of award.

☐

Alternate III

Paragraph (b) of the basic clause, above, is not applicable to this subcontract.

JSA-202 FIRST ARTICLE APPROVAL – JSA TESTING (June 2006)

- (a) The Subcontractor shall deliver _____ unit(s) of Lot/Item within _____ calendar days from the date of this subcontract to JSA at _____ for article tests. The shipping documentation shall contain this subcontract number and the Lot/Item identification. The characteristics that the first article must meet and the testing requirements are specified elsewhere in this subcontract.
- (b) Within _____ calendar days after JSA receives the first article, the Subcontracting Officer shall notify the Subcontractor, in writing, of the conditional approval, approval, or disapproval of the first article. The notice of conditional approval or approval shall not relieve the Subcontractor from complying with all requirements of the specifications and all other terms and conditions of this subcontract. A notice of conditional approval shall state any further action required of the Subcontractor. A notice of disapproval shall cite reasons for the disapproval.
- (c) If the first article is disapproved, the Subcontractor, upon JSA request, shall submit an additional first article for testing. After each request, the Subcontractor shall make any necessary changes, modifications, or repairs to the first article or select another first article for testing. All costs related to these tests are to be borne by the Subcontractor, including any and all costs for additional tests following a disapproval. The Subcontractor shall furnish any additional first article to JSA under the terms and conditions and within the time specified by JSA. JSA shall act

on this first article within the time limit specified in paragraph (b) above. JSA reserves the right to require an equitable adjustment of the subcontract price for any extension of the delivery schedule or for any additional costs to JSA related to these tests.

- (d) If the Subcontractor fails to deliver any first article on time, or the Subcontracting Officer disapproves any first article, the Subcontractor shall be deemed to have failed to make delivery within the meaning the Default clause of this subcontract.
- (e) Unless otherwise provided in the subcontract, the Subcontractor -
 - (1) May delivery the approved first article as a part of the subcontract quantity, provided it meets all subcontract requirements for acceptance and was not consumed or destroyed in testing; and
 - (2) Shall remove and dispose of any first article from JSA test facility at the Subcontractor's expense.
- (f) If JSA does not act within the time specified in paragraph (b) or (c) above, the Subcontracting Officer equitably adjust under the Changes clause of this subcontract the delivery or performance dates and/or the subcontract price, and any other subcontractual term affected by the delay.
- (g) The Subcontractor is responsible for providing operating and maintenance instructions, spare parts support, and repair of the first article during any first article test.
- (h) Before first article approval, the acquisition of materials or components for, or the commencement of production of, the balance of the subcontract quantity is at the sole risk of the Subcontractor. Before first article approval, the costs thereof shall not be allocable to this subcontract for
 - (1) Progress payments, or
 - (2) Termination settlements if the subcontract is terminated for the convenience of JSA.
- (i) JSA may waive the requirement for first article approval test where supplies identical or similar to those called for in the schedule have been previously furnished by the Offeror/Subcontractor and have been accepted by JSA. The Offeror/Subcontractor may request a waiver.

If Alternate I paragraph is check marked then paragraph (j) below is included in the basic clause.

☐ Alternate I

- (j) The Subcontractor shall produce both the first article and the production quantity at the same facility and shall submit a certification to this effect with each first article.

If Alternate II paragraph is check marked then paragraph (g) below is substituted for (g) of the basic clause.

☐ Alternate II

- (f) Before first article approval, the Subcontracting Officer may, by written authorization, authorize the Subcontractor to acquire specific materials or components or to commence production to the extent essential to meet the delivery schedules. Until first article approval is granted, only costs for the first article and costs incurred under this authorization are allocable to this subcontract for (1) progress payments, or (2) termination settlements if the subcontract is terminated for the convenience of JSA. If first article tests reveal deviations from subcontract requirements, the Subcontractor shall, at the location designated by JSA, make the required changes or replace all items produced under this subcontract at no change in the subcontract price.

- (a) The Subcontractor shall test ____ unit(s) of Lot/Item ____ as specified in this subcontract. At least ____ calendar days before the beginning of first article tests, the Subcontractor shall notify the Subcontracting Officer, in writing, of the time and location of the testing so that JSA may witness the tests.
- (b) The Subcontractor shall submit the first article test report within ____ calendar days from the date of this subcontract to ____ "FIRST ARTICLE TEST REPORT: Subcontract No. JSA____, Lot/Item No. ____ " Within ____ calendar days after JSA receives the test report, the Subcontracting Officer shall notify the Subcontractor, in writing, of the conditional approval, approval, or disapproval of the first article. The notice of conditional approval or approval shall not relieve the Subcontractor from complying with all requirements of the specifications and all other terms and conditions of this subcontract. A notice of conditional approval shall state any further action required of the Subcontractor. A notice of disapproval shall cite reasons for the disapproval.
- (c) If the first article is disapproved, the Subcontractor, upon JSA request, shall repeat any or all first article tests. After each request for additional tests, the Subcontractor shall make any necessary changes, modifications, or repairs to the first article or select another first article for testing. All costs related to these tests are to be borne by the Subcontractor, including any and all costs for additional tests following a disapproval. The Subcontractor shall then conduct the tests and deliver another report to JSA under the terms and conditions and within the time specified by JSA. JSA shall take action on this report within the time specified in paragraph (b) above. JSA reserves the right to require an equitable adjustment of the subcontract price for any extension of the delivery schedule, or for any additional costs to JSA related to these tests.
- (d) If the Subcontractor fails to deliver any first article report on time, or the Subcontracting Officer disapproves any first article, the Subcontractor shall be deemed to have failed to make delivery within the meaning of the Default clause of this subcontract.
- (e) Unless otherwise provided in the subcontract, and if the approved first article is not consumed or destroyed in testing, the Subcontractor may delivery the approved first article as part of the subcontract quantity if it meets all subcontract requirements for acceptance.
- (f) If JSA does not act within the time specified in paragraph (b) or (c) above, the Subcontracting officer shall, upon timely written request from the Subcontractor, equitably adjust under the changes clause of this subcontract the delivery or performance dates and/or the contract price, and any other subcontractual term affected by the delay.
- (g) Before first article approval, the acquisition of materials or components for, or the commencement of production of, the balance of the subcontract quantity is at the sole risk of the Subcontractor. Before first article approval, the costs thereof shall not be allocable to this subcontract for
 - (1) Progress payments, or
 - (2) Termination settlements if the subcontract is terminated for the convenience of JSA.
- (h) JSA may waive the requirement for first article approval test where supplies identical or similar to those called for in the schedule have been previously furnished by the offeror/subcontractor and have been accepted by JSA. The offeror/subcontractor may request a waiver.

If Alternate I paragraph is check marked then paragraph (i) below is included in the basic clause.

☐ Alternate I

- (i) The Subcontractor shall produce both the first article and the production quantity at the same facility and shall submit a certification to this effect with each first article.

If Alternate II paragraph is check marked then paragraph (g) below is substituted for (g) of the basic clause.

☐ Alternate II

- (g) Before first article approval, the Subcontracting Officer may, by written authorization, authorize the Subcontractor to acquire specific materials or components or to commence production to the extent essential to meet the delivery schedules. Until first article approval is granted, only costs for the first article and costs incurred under this authorization are allocable to this subcontract for (1) progress payments, or (2) termination settlements if the subcontract is terminated for the convenience of JSA. If first article tests reveal deviations from subcontract requirements, the Subcontractor shall, at the location designated by JSA, make the required changes or replace all items produced under this subcontract at no change in the subcontract price.

JSA-204 CERTIFICATE OF CONFORMANCE (June 2006)

- (a) When authorized in writing by the cognizant Subcontracting Officer, the Subcontractor shall ship with a Certificate of Conformance any supplies for which the subcontract would otherwise require inspection at source. In no case shall JSA's right to inspect supplies under the inspection provisions of this subcontract be prejudiced. Shipments of such supplies will not be made under this subcontract until use of the Certificate of Conformance has been authorized in writing by the Subcontracting Officer, or inspection and acceptance have occurred.
- (b) The Subcontractor's signed certificate shall be attached to or included on the top copy of the inspection or receiving report distributed to the payment office. In addition, a copy of the signed certificate shall also be attached to or entered on copies of the inspection or receiving report accompanying the shipment.
- (c) JSA has the right to reject defective supplies or services within a reasonable time after delivery by written notification to the Subcontractor. The Subcontractor shall in such event promptly replace, correct, or repair the rejected supplies or services at the Subcontractor's expense.
- (d) The certificate shall read as follows:

"I certify that on ____ (insert date), ____ (insert Subcontractor's name) furnished the supplies or services called for by Subcontract No. ____ via ____ (Carrier) on ____ (identify the bill of lading or shipping document) in accordance with all applicable requirements. I further certify that the supplies or services are of the quality specified and conform in all respects with the subcontract requirements, including specifications, drawings, preservation, packaging, packing, marking requirements, and physical item identification (part number), and are in the quantity shown on this or on the attached acceptance document.

Date of Execution: _____

Signature: _____

Title: _____

JSA-205 HIGHER LEVEL SUBCONTRACT QUALITY REQUIREMENT (June 2006)

- (a) Definition. "Subcontract Date," as used in this clause, means the date set for bid opening or, if this is a negotiated subcontract or a modification, the effective date of this subcontract or modification.

- (b) The Subcontractor shall comply with the specification titled _____, in effect on the subcontract date, which is hereby incorporated into this subcontract.

JSA-206 INSPECTION AND ACCEPTANCE AT DESTINATION (June 2006)

Inspection and acceptance will be at destination. Inspection and acceptance by anyone other than _____ is not authorized.

JSA-207 PERFORMANCE BASED PAYMENTS (June 2006)

(a) *Amount of payments and limitations on payments.* Subject to such other limitations and conditions as are specified in this contract and this clause, the amount of payments and limitations on payments shall be specified in the contract's description of the basis for payment.

(b) *Contractor request for performance-based payment.* The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all performance-based payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled. The Contractor's request shall contain the information and certification detailed in paragraphs (l) and (m) of this clause.

(c) *Approval and payment of requests.*

(1) The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Contracting Officer shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved requests on the _____ [Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"] day after receipt of the request for performance-based payment. However, the designated payment office is not required to provide payment if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquires into the status of an event or performance criterion, or into any of the conditions listed in paragraph (e) of this clause, or into the Contractor certification. The payment period will not begin until the Contracting Officer approves the request.

(3) The approval by the Contracting Officer of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this contract.

(d) *Liquidation of performance-based payments.*

(1) Performance-based finance amounts paid prior to payment for delivery of an item shall be liquidated by deducting a percentage or a designated dollar amount from the delivery payment. If the performance-based finance payments are on a delivery item basis, the liquidation amount for

each such line item shall be the percent of that delivery item price that was previously paid under performance-based finance payments or the designated dollar amount. If the performance-based finance payments are on a whole contract basis, liquidation shall be by either predesignated liquidation amounts or a liquidation percentage.

(2) If at any time the amount of payments under this contract exceeds any limitation in this contract, the Contractor shall repay to the Government the excess. Unless otherwise determined by the Contracting Officer, such excess shall be credited as a reduction in the unliquidated performance-based payment balance(s), after adjustment of invoice payments and balances for any retroactive price adjustments.

(e) *Reduction or suspension of performance-based payments.* The Contracting Officer may reduce or suspend performance-based payments, liquidate performance-based payments by deduction from any payment under the contract, or take a combination of these actions after finding upon substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (h) and (i) of this clause).

(2) Performance of this contract is endangered by the Contractor's --

- (i) Failure to make progress; or
- (ii) Unsatisfactory financial condition.

(3) The Contractor is delinquent in payment of any subcontractor or supplier under this contract in the ordinary course of business.

(f) *Title.*

(1) Title to the property described in this paragraph (f) shall vest in the Government. Vestiture shall be immediately upon the date of the first performance-based payment under this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract

(2) "Property," as used in this clause, includes all of the following described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices:

- (i) Parts, materials, inventories, and work in process;
- (ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;
- (iii) Nondurable (*i.e.*, noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (f)(2)(ii) of this clause; and
- (iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract (e.g., the termination or special tooling clauses) shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract, without requesting the Contracting Officer's approval, provided that any significant reduction in the value of the property to which the Government has title under this clause is reported in writing to the Contracting Officer.

(5) In order to acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. If approved, the basis for payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not --

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(g) *Risk of loss.* Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. If any property is damaged, lost, stolen, or destroyed, the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(h) *Records and controls.* The Contractor shall maintain records and controls adequate for administration of this clause. The Contractor shall have no entitlement to performance-based payments during any time the Contractor's records or controls are determined by the Contracting Officer to be inadequate for administration of this clause.

(i) *Reports and Government access.* The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Contracting Officer for the administration of this clause and to determine that an event or other criterion prompting a financing payment has been successfully accomplished. The Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's records and to examine and verify the Contractor's performance of this contract for administration of this clause.

(j) *Special terms regarding default.* If this contract is terminated under the Default clause,

(1) the Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments, and

(2) title shall vest in the Contractor, on full liquidation of all performance-based payments, for all property for which the Government elects not to require delivery under the Default clause of this contract. The Government shall be liable for no payment except as provided by the Default clause.

(k) *Reservation of rights.*

(1) No payment or vesting of title under this clause shall --

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause --

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(l) *Content of Contractor's request for performance-based payment.* The Contractor's request for performance-based payment shall contain the following:

(1) The name and address of the Contractor;

(2) The date of the request for performance-based payment;

(3) The contract number and/or other identifier of the contract or order under which the request is made;

(4) Such information and documentation as is required by the contract's description of the basis for payment; and

(5) A certification by a Contractor official authorized to bind the Contractor, as specified in paragraph (m) of this clause.

(m) *Content of Contractor's certification.* As required in paragraph (l)(5) of this clause, the Contractor shall make the following certification in each request for performance-based payment:

I certify to the best of my knowledge and belief that --

(1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared from the books and records of the Contractor, in accordance with the contract and the instructions of the Contracting Officer;

(2) (Except as reported in writing on _____), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;

(3) There are no encumbrances (except as reported in writing on _____) against the property acquired or produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;

(4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to the Government of the most recent written information dated _____; and

(5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.

JSA-208 DELIVERY OF EXCESS QUANTITIES OF \$250 OR LESS (June 2006)

The Subcontractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Subcontractor delivers and JSA receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Subcontractor. JSA may retain such excess quantities up to \$250 in value without compensating the Subcontractor therefore, and the Subcontractor waives all right, title, or interests therein. Quantities in excess of \$250 will, at the option of JSA, either be returned at the Subcontractors expense or retained and paid for by JSA at the subcontract unit price.

JSA-209 OPTION FOR INCREASED QUANTITY – SEPARATELY PRICED LINE ITEM (June 2006)

JSA may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Subcontracting Officer may exercise the option by written notice to the Subcontractor within _____. Delivery of added items shall continue at the same rate that like items are called for under the subcontract, unless the parties otherwise agree.

JSA-210 OPTION FOR INCREASED QUANTITY (June 2006)

JSA may increase the quantity of supplies called for in the Schedule at the unit price specified by written notice to the Subcontractor within _____. Delivery of the added items shall continue at the same rate as the like items called for under the subcontract, unless the parties otherwise agree.

JSA-211 MARKING (June 2006)

- (a) Each package, report or other deliverable shall be accompanied by a letter or other document which:
 - (1) Identifies the subcontract by number under which the item is being delivered.
 - (2) Identifies the deliverable Item Number or Report Requirement that required the delivered item(s).
 - (3) Indicates whether the Subcontractor considers the delivered item to be a partial or full satisfaction of the requirement.
- (b) For any package, report, or other deliverable being delivered to a party other than the Subcontracting Officer, a copy of the document required in (A) above shall be simultaneously

provided to the office administering the subcontract, as identified in JSA Clause 106 of the subcontract.

JSA-212 PACKAGING (June 2006)

Preservation, packaging, and packing for shipment or mailing of all work deliverable hereunder shall be in accordance with standard commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rates.

JSA-213 VARIATION IN QUANTITY (June 2006)

(a) A variation in the quantity of any item called for by this subcontract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) below.

(b) The permissible variation shall be limited to:

_____ Percent increase.

_____ Percent decrease.

This increase or decrease shall apply to _____.

JSA-214 WARRANTY OF SUPPLIES OF A NON-COMPLEX NATURE (June 2006)

(a) Definitions.

"Acceptance," as used in this clause, means the act of an authorized representative of JSA by which JSA assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the subcontract.

"Correction," as used in this clause, means the elimination of a defect.

"Supplies," as used in this clause, means the end item furnished by the Subcontractor and related services required under the subcontract. The word does not include "data."

(b) Subcontractor's obligations.

(1) Notwithstanding inspection and acceptance by JSA of supplies furnished under this subcontract, or any condition of this subcontract concerning the conclusiveness thereof, the Subcontractor warrants that for _____.

(i) All supplies furnished under this subcontract will be free from defects in material or workmanship and will conform with all requirements of this subcontract; and

(ii) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this subcontract.

(2) When return, correction, or replacement is required, transportation charges and responsibility for the supplies while in transit shall be borne by the Subcontractor. However, the Subcontractor's liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in this subcontract and the Subcontractor's plant, and return.

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(4) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this subcontract.

(c) Remedies available to JSA.

- (1) The Subcontracting Officer shall give written notice to the Subcontractor of any breach of warranties in paragraph (b)(1) of this clause within 30 (thirty) business days of discovery of the breach.
- (2) Within a reasonable time after the notice, the Subcontracting Officer may either -
 - (i) Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this subcontract within the meaning of paragraph (b)(1) of this clause; or
 - (ii) Retain such supplies and reduce the subcontract price by an amount equitable under the circumstances.
- (3) (i) If the subcontract provides for inspection of supplies by sampling procedures, conformance of suppliers or components subject to warranty action shall be determined by the applicable sampling procedures in the subcontract. The Subcontracting Officer -
 - (A) May, for sampling purposes, group any supplies delivered under this subcontract;
 - (B) Shall require the size of the sample to be that required by sampling procedures specified in the subcontract for the quantity of supplies on which warranty action is proposed;
 - (C) May project warranty sampling results over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection; provided, that the supplies remaining are reasonably representative of the quantity on which warranty action is proposed; and
 - (D) Need not use the same lot size as on original inspection or reconstitute the original inspection lots.
- (ii) Within a reasonable time after notice of any breach of the warranties specified in paragraph (b)(1) of this clause, the Subcontracting Officer may exercise one or more of the following options:
 - (A) Require an equitable adjustment in the subcontract price for any group of supplies.
 - (B) Screen the supplies grouped for warranty action under this clause at the Subcontractor's expense and return all nonconforming supplies to the Subcontractor for correction or replacement.
 - (C) Require the Subcontractor to screen the supplies at locations designated by JSA within the continental United States and to correct or replace all nonconforming supplies.
 - (D) Return the supplies grouped for warranty action under this clause to the Subcontractor (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement.
- (4) (i) The Subcontracting Officer may, by subcontract or otherwise, correct or replace the nonconforming supplies with similar supplies from another source and charge to the Subcontractor the cost occasioned to JSA thereby if the Subcontractor -
 - (A) Fails to make redelivery of the corrected or replaced supplies within the time established for their return; or
 - (B) Fails either to accept return of the nonconforming supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure such failure within a period of 10 days (or such longer period as the Subcontracting Officer may authorize in writing) after receipt of notice from the Subcontracting Officer specifying such failure.
- (ii) Instead of correction or replacement by JSA, the Subcontracting Officer may require an equitable adjustment of the subcontract price. In addition, if the Subcontractor fails to furnish timely disposition instructions, the Subcontracting Officer may dispose of the nonconforming supplies for the Subcontractor's account in a reasonable manner. JSA is entitled to reimbursement from the Subcontractor, or from the proceeds of such disposal, for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for excess costs incurred or to be incurred.

- (5) The rights and remedies of JSA provided in this clause are in addition to and do not limit any rights afforded to JSA by any other clause of this subcontract.

JSA-215 WARRANTY OF SUPPLIES OF A COMPLEX NATURE (June 2006)

(a) Definitions.

"Acceptance," as used in this clause, means the act of an authorized representative of JSA by which JSA assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the subcontract.

"Correction," as used in this clause, means the elimination of a defect.

"Supplies," as used in this clause, means the end items furnished by the Subcontractor and related services required under this subcontract. The word does not include "data."

(b) Subcontractor's obligations.

- (1) The Subcontractor warrants that for _____ all supplies furnished under this subcontract will be free from defects in material and workmanship and will conform with all requirements of this subcontract; provided, however, that with respect to Government or JSA-furnished property, the Subcontractor's warranty shall extend only to its proper installation, unless the Subcontractor performs some modification or other work on the property, in which case the Subcontractor's warranty shall extend to the modification or other work.
- (2) Any supplies or parts thereof corrected or furnished in replacement shall be subject to the conditions of this clause to the same extent as supplies initially delivered. This warranty shall be equal in duration to that set forth in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.
- (3) The Subcontractor shall not be obligated to correct or replace supplies if the facilities, tooling, drawings, or other equipment or supplies necessary to accomplish the correction or replacement have been made unavailable to the Subcontractor by action of JSA. In the event that correction or replacement has been directed, the Subcontractor shall promptly notify the Subcontracting Officer, in writing, of the nonavailability.
- (4) The Subcontractor shall also prepare and furnish to JSA data and reports applicable to any correction required (including revision and updating of all affected data called for under this subcontract) at no increase in the subcontract price.
- (5) When supplies are returned to the Subcontractor, the Subcontractor shall bear the transportation costs from the place of delivery specified in the subcontract (irrespective of the f.o.b. point or the point of acceptance) to the Subcontractor's plant and return.
- (6) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this subcontract.

(c) Remedies available to JSA.

- (1) In the event of a breach of the Subcontractor's warranty in paragraph (b)(1) of this clause, JSA may, at no increase in subcontract price –
 - (i) Require the Subcontractor, at the place of delivery specified in the subcontract (irrespective of the f.o.b. point or the point of acceptance) or at the Subcontractor's plant, to repair or replace, at the Subcontractor's election, defective or nonconforming supplies; or
 - (ii) Require the Subcontractor to furnish at the Subcontractor's plant the materials or parts and installation instructions required to successfully accomplish the correction.
- (2) If the Subcontracting Officer does not require correction or replacement of defective or nonconforming supplies or the Subcontractor is not obligated to correct or replace under

paragraph (b)(3) of this clause, JSA shall be entitled to an equitable reduction in the subcontract price.

- (3) The Subcontracting Officer shall notify the Subcontractor in writing of any breach of the warranty in paragraph (b) (1) of this clause within 30 (thirty) business days of discovery of the breach.
- (4) The Subcontractor shall submit to the Subcontracting Officer a written recommendation within _____ as to the corrective action required to remedy the breach. After the notice of breach, but not later than _____ after receipt of the Subcontractor's recommendation for corrective action, the Subcontracting Officer may, in writing, direct correction or replacement as in paragraph (c)(1) of this clause, and the Subcontractor shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with this direction. If it is later determined that the Subcontractor did not breach the warranty in paragraph (b)(1) of this clause, the subcontract price will be equitably adjusted.
- (5) If supplies are corrected or replaced, the period for notification of a breach of the Subcontractor's warranty in paragraph (c)(3) of this clause shall be _____ from the furnishing or return by the Subcontractor to JSA of the corrected or received supplies or parts thereof, or, if correction or replacement is effected by the Subcontractor at a Government or other activity, for _____ thereafter.
- (6) The rights and remedies of JSA provided in this clause are in addition to and do not limit any rights afforded to JSA by any other clause of the subcontract.

JSA-216 LIQUIDATED DAMAGES – SUPPLIES, SERVICES, OR RESEARCH AND DEVELOPMENT (June 2006)

- (a) If the Subcontractor fails to deliver the supplies or perform the services within the time specified in this contract, or any extension, the Subcontractor shall, in place of actual damages, pay to the Government as fixed, agreed, and liquidated damages, for each calendar day of delay the sum of \$____.
- (b) Alternatively, if delivery or performance is so delayed, JSA may terminate this subcontract in whole or in part under the Termination for Default--Supplies and Services clause in this subcontract and in that event, the Subcontractor shall be liable for fixed, agreed, and liquidated damages accruing until the time JSA may reasonably obtain delivery or performance of similar supplies or services. The liquidated damages shall be in addition to excess costs under the Termination clause.
- (d) The Subcontractor shall not be charged with liquidated damages when the delay in delivery or performance arises out of causes beyond the control and without the fault or negligence of the Subcontractor as defined in the Termination for Default--Supplies and Services clause in this contract.

JSA-217 FOB DESTINATION – INCOTERMS DDU (June 2006)

- (a) All items that are non domestically (foreign) manufactured and shipped to Jefferson Lab from the foreign source may be accorded Duty Free Entry. Except as otherwise approved by the Subcontracting Officer, no amount is or will be included in the Purchase Order or Subcontract price for any Customs Duties or Customs Import Broker Fees on supplies identified in the Schedule as being purchased by Jefferson Lab for use at Jefferson Lab, Newport News, Virginia (or at other Department of Energy (DOE) approved sites in the United States). Any amount improperly included by the Subcontractor shall be subject to setoff and/or recoupment.

- (b) JSA will request the DOE Contracting Officer execute required duty-free certificates for items specified in the Purchase Order or Subcontract or otherwise approved by the Subcontracting Officer; and to assist the Subcontractor in obtaining duty-free entry of the supplies.
- (c) The Subcontractor shall comply with the following instructions:
- (1) No later than three (3) working days before shipment of any non domestically manufactured supplies by air and ten (10) working days before shipments other than by air to Jefferson Lab, the Subcontractor shall provide the following documents/information to the Import Broker and the JLab Subcontracting Officer and Property Administrator: (1) Bill of lading/airway bill, (2) Pro forma invoice for items to be delivered to JSA/JLab, Newport News, VA, USA or other designated DOE U.S. site, indicating the quantity and value of item in U.S. Dollars, (3) Itemized packing list, (4) Name of carrier, (5) estimated delivery date, and (6) U.S. port of entry. **PLEASE NOTE: JSA/JLab recommends using Norfolk, Virginia as the U.S. Port of Entry for deliveries to Jefferson Lab.**
- (2) No later than the day of the first shipment of any non domestically manufactured supplies, the Subcontractor shall provide a notice to the Import Broker confirming the name of the carrier and the estimated arrival date and, if available, the flight number or name of the transporting vessel.
- (3) Local Broker familiar with Jefferson Lab is:
Eastport Customs Brokers, Inc., 732 Thimble Shoals Blvd., Suite 302A, Newport News, VA 23606, Telephone 757-873-2215, Fax 757-873-2130.
- (4) Notices for the JLab Property Administrator shall be sent to : _____, JLab Property Administrator, 628 Hofstadter Rd., Suite ____, Newport News, VA 23606, Fax 757-269-5835, email _____. A copy of the notice shall be provided to: _____, Subcontracting Officer, Fax 757-269-7057, email _____.
- (5) All shipping documents and packages shall bear the following information **(THE IMPORT BROKER IDENTIFICATION MUST BE INCLUDED):**
- i. U.S. Department of Energy Contract Number, which is DE-AC05-06OR23177.
 - ii. JSA Purchase Order or Subcontract Number
 - iii. Identification of Carrier to include flight number or name of transporting vessel and estimated date of arrival.
 - iv. U.S. Port of Entry
 - v. The notation: "FOR SHIPMENT TO JEFFERSON SCIENCE ASSOCIATES for use at Jefferson Lab (or other designated U.S. DOE site) for the United States Department of Energy under Contract No. DE-AC05-06OR23177. Upon arrival of shipment, NOTIFY **(INSERT THE IMPORT BROKER IDENTIFICATION)** UPON ARRIVAL FOR CUSTOMS CLEARANCE. Upon arrival of shipment at the U.S. port of entry the U.S. Customs Office is requested to release the shipment under 19 CFR 142 and request the Jefferson Lab subcontracting officer and property administrator to furnish duty-free status documentation if required."
 - vi. Shipping terms are Incoterm DDU Jefferson Lab. The Seller will bear all costs and risks required to bring the goods to the Destination country, up to and including the Buyer's premises.

JSA Clause Nos. 300 – 399 Clauses Principally Applicable to Service Subcontracts

JSA-300 SUBCONTRACT PERFORMANCE PERIOD (June 2006)

- (a) The initial period of performance for this subcontract shall be one base period plus up to _____ additional option periods. JSA may extend the term of this subcontract by written notice to the Subcontractor, in accordance with the criteria specified herein.
- (b) JSA's decision to exercise an option to extend the period of performance will be contingent upon availability of funds for the next year and JSA's continuing need for the services. JSA may also consider other relevant decision factors, including but not limited to: subcontractor's record of performance during the current year; reasonableness of the subcontractor's price for the option period as determined by the proposed price and market research; and JSA's determination of subcontractor responsibility.
- (c) JSA shall give the Subcontractor a preliminary written notice of its intent to award an Option Period at least 60 days before the end of the current performance period. The preliminary notice does not commit JSA to an extension.
- (d) After receipt of a preliminary notice of intent to award an Option Period, the Subcontractor shall be notified of JSA's actual intent to award an Option Year within 30 days of the end of the current performance period. This notice of intent is contingent on the receipt of funds for the next Year.
- (e) Award of an Option Period shall be effective only upon issuance of a subcontract modification by the Subcontracting Officer.

JSA-301 OPTION TO EXTEND SERVICES (June 2006)

JSA may require continued performance of any services within the limits and at the rates specified in the subcontract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. This provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Subcontracting Officer may exercise the option by written notice to the Subcontractor within 30 days before the end of the Base Period or the end of the current Option or Award Term Period. The total duration of this subcontract, including the exercise of any options under this clause, shall not exceed _____.

JSA-302 INSPECTION OF SERVICES (June 2006)

- (a) Definitions. "Services" as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Subcontractor shall provide and maintain an inspection system acceptable to JSA covering the services under this subcontract. Complete records of all inspection work performed by the Subcontractor shall be maintained and made available to JSA during subcontract performance and for as long afterwards as the subcontract requires.
- (c) JSA has the right to inspect and test all services called for by the subcontract, to the extent practicable at all times and places during the term of the subcontract. JSA shall perform inspection and tests in a manner that will not unduly delay the work.

- (d) If any of the services do not conform with subcontract requirements, JSA may require the Subcontractor to perform the services again in conformity with subcontract requirements, at no increase in subcontract amount. When the defects in services cannot be corrected by reperformance, JSA may (1) require the Subcontractor to take necessary action to ensure that future performance conforms to subcontract requirements and (2) reduce the subcontract price to reflect the reduced value of the services performed.
- (e) If the Subcontractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with subcontract requirements, JSA may (1) by subcontract or otherwise, perform the services and charge to the Subcontractor any cost incurred by JSA that is directly related to the performance of such service or (2) terminate the subcontract for default.

JSA-303 PERIODIC PROGRESS MEETINGS (June 2006)

- (a) The Procurement Representative, Technical Representative, and other JSA personnel, as appropriate, will meet periodically with the subcontractor to review the Subcontractor's performance. At these meetings the Procurement Representative will apprise the Subcontractor of how JSA views the Subcontractor's performance and the Subcontractor will apprise JSA of problems, if any, being experienced. The Subcontractor will also notify the Procurement Representative (in writing) of any work being performed, if any, that the Subcontractor considers over and above the requirements of the subcontract. Appropriate action shall be taken to resolve outstanding issues.
- (b) These meetings shall be held more frequently during the first month of the subcontract period, and as needed, but not less than _____ thereafter.

JSA-304 PERMITS AND RESPONSIBILITIES FOR WORK (June 2006)

The Subcontractor shall, without additional expense to JSA, obtain all licenses and permits required for the prosecution of the work. The Subcontractor shall be responsible for all damages to persons or properties that occur as a result of the Subcontractor's fault or negligence in connection with the prosecution of the work.

JSA-305 LIABILITY (June 2006)

JSA shall not be held responsible for damages to property or for injuries or death to persons which might occur without fault on the part of JSA as a result of, or incident to, performance of the subcontract.

JSA-306 SUPERVISION (June 2006)

JSA shall not exercise any supervision or control over the Subcontractor's employees performing services under this subcontract. Such employees shall be accountable not to JSA, but solely to the Subcontractor, who in turn is responsible to JSA.

JSA-307 TASK ORDERING PROCEDURES (June 2006)

Performance under this subcontract is subject to the following ordering procedure.

- (a) Within the cost limitations specified in this subcontract, the subcontractor shall incur costs under this subcontract in the performance of approved task orders and task order modifications issued in accordance with this ordering procedure. No other costs are authorized without the express written consent of the Subcontracting Officer.
- (b) From time to time during the term of this subcontract, the Subcontracting Officer will issue task proposal requests in writing to the subcontractor, providing specific information on work to be performed within the scope of the subcontract. Each task proposal request will indicate the objectives or results desired. Each task proposal request shall require the subcontractor to acknowledge receipt and submit its task order proposal to the Subcontracting Officer within five calendar days after receipt. If the subcontractor cannot comply with a task order requirement, the subcontractor shall indicate in its proposal the changes required prior to acceptance. Any differences must be resolved between the parties and the order modified to reflect the final agreement. Upon receipt of the subcontractor's task proposal, the Subcontracting Officer will negotiate the task order terms with the subcontractor and following the subcontractor's acknowledgment of the agreement, issue the task order.
 - (1) Unless otherwise directed by the Subcontracting Officer, the Subcontractor shall submit the following information in its task order proposal:
 - (i) Discussion of the technical approach for performing the work.
 - (ii) Estimated date of commencement of work, and any changes proposed to the schedule of performance.
 - (iii) Productive work hours, both straight time and overtime (if authorized), on a monthly basis by applicable labor category, and the total productive work hours, including those in (b)(iv)(B) of this clause, estimated to complete the task.
 - (iv) The total estimated cost and fee, where appropriate, for completion of the task order, including:
 - (A) The travel and material estimates.
 - (B) An estimate for subcontractors and consultants
 - (C) Estimated computer use time required, if applicable.
 - (D) Other pertinent information, such as indirect costs and inter-divisional transfers.
 - (E) Proposed fee to be assigned to the task order, including proposed distribution of fee for achievement of specific milestones.
 - (2) Task orders will contain, as a minimum, the following information:
 - (i) Signature of the Subcontracting Officer.
 - (ii) Subcontract number, order number, and date.
 - (iii) Description of work.
 - (iv) Maximum dollar amount authorized (cost and fee or price)
 - (v) Other resources authorized.
 - (vi) Documentation requirements, as appropriate.
 - (vii) Delivery/performance schedule.
 - (viii) Quality assurance standards, as appropriate.
 - (ix) Any other necessary information.
 - (x) Fixed fee.
- (c) Each task order shall specify a total cost limitation. Notwithstanding the Limitation of Funds clause, the subcontractor shall not exceed the authorized cost set forth in each individual task order.

JSA-308 AWARD TERM - SERVICES (June 2006)

- (a) The initial period of performance for this subcontract shall be one base period plus up to _____ additional option periods. This initial period of performance may be extended or reduced based on

subcontractor performance, as described in the Performance Work Statement. The subcontractor may earn up to ____ additional award terms of ____ year(s)/period each, based on performance in each period of the initial period of performance, for a total potential subcontract period of up to ____ years. However, earned award terms may be forfeited if performance in a subsequent period does not meet standards.

- (b) At least 90 days prior to the start of an earned Award Term, the subcontractor shall submit a detailed price proposal for the Award Term to the Subcontracting Officer. Prices shall not exceed the ceiling prices in the schedule, and shall be as low or lower than those charged to the Subcontractor's most favored customers for comparable services under similar terms and conditions. Award Term pricing is subject to negotiation and approval by the Subcontracting Officer.
- (c) Earned award term extensions shall be made effective by issuance of a bilateral modification to the subcontract, and shall be contingent upon availability of funds, determination of subcontractor responsibility, price reasonableness and continuing need for services.
- (d) The subcontractor may refuse an Award Term period with advance notification, in writing, to the Subcontracting Officer at least one year prior to the start date of the Award Term period.

JSA-309 JSA DELAY OF WORK (June 2006)

- (a) If the performance of all or any part of the work of this subcontract is delayed or interrupted (1) by an act of the Subcontracting Officer in the administration of this subcontract that is not expressly or implicitly authorized by this subcontract, or (2) by a failure of the Subcontracting Officer to act within the time specified in this subcontract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this subcontract caused by the delay or interruption and the subcontract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other subcontract term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Subcontractor, or for which an adjustment is provided or excluded under any other term or condition of this subcontract.
- (b) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Subcontractor shall have notified the Subcontracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the subcontract.

JSA-310 RIGHTS OF JSA TO PERFORM FUNCTIONS WITH ITS OWN PERSONNEL (June 2006)

JSA reserves the right to perform or supplement performance of subcontract functions with JSA personnel during periods of disaster, war emergencies, police action, or acts of God.

JSA-311 UTILITIES (June 2006)

For the purpose of this subcontract, utilities, water, electricity, etc., will be furnished at no cost to the subcontractor. The Subcontractor shall carefully conserve all utilities that are being furnished without charge and participate in all energy conservation programs.

JSA-312 TELEPHONE SERVICE (June 2006)

Telephone service ☐ will, ☐ will not be provided.

JSA-313 SUBCONTRACTOR CHANGEOVER (June 2006)

JSA reserves the right to conduct site visits in all subcontractor-operated facilities in conjunction with the solicitation of offers for the follow-on subcontract. In the event the follow-on subcontract is awarded to other than the incumbent, the incumbent subcontractor will cooperate to the extent required to permit an orderly changeover to the successor subcontractor. With regard to the successor subcontractor's access to incumbent employees, a recruitment notice may be placed in each facility.

JSA-314 SUBCONTRACTOR LOCATION (June 2006)

During the entire performance period of the Subcontract, including option periods, the Subcontractor shall maintain an office within _____ miles of Jefferson Lab and have sufficient employees employed to assure that this subcontract's requirements can be satisfactorily performed. In accordance with this provision the Subcontractor must continuously demonstrate that the Subcontractor can immediately fill absences or vacancies, and can adequately respond to contingencies that may require additional manning.

JSA-315 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA SHEET (June 2006)

- (a) "Hazardous material", as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).
- (b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this subcontract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this subcontract.

Material	Identification Number
(If none, insert "None")	

- (c) The apparently successful offeror, by acceptance of the subcontract, certifies that the list in paragraph (b) of this clause is complete. This list must be updated during performance of the subcontract whenever the Subcontractor determines that any other material to be delivered under this subcontract is hazardous.
- (d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.
- (e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph

(d) of this clause or the certification submitted under paragraph (c) of this clause, the Subcontractor shall promptly notify the Subcontracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by JSA shall relieve the Subcontractor of any responsibility or liability for the safety of JSA, Subcontractor, or lower-tier subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Subcontractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) JSA's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to –

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for JSA for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) JSA is not precluded from using similar or identical data acquired from other sources.

JSA-316 EH&S for University Subcontractor Personnel/Users (April 2007)

Subcontractor personnel must adhere to the Environmental, Health, and Safety requirements found in the “Jefferson Lab Registration and Training for Halls (A, B, C, D), Theory, and Accelerator” provided to the subcontractor personnel by the User Liaison office.

JSA Clause Nos. 400 – 499 Clauses Principally Applicable to Construction Subcontracts
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JSA-400 ADMINISTRATIVE PROCEDURES FOR CHANGE - Construction (June 2006)

- (a) The Subcontractor, in connection with any change, shall furnish a price proposal itemized as required by the Subcontracting Officer. Unless otherwise directed, the proposal shall be in sufficient detail to permit an analysis of all direct and indirect material, labor, equipment, subcontract, and overhead costs, as well as profit. The proposal shall cover all work involved, whether such work was deleted, added or changed. Any amount claimed for lower tier subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification shall be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Subcontracting Officer.
- (b) Notwithstanding any other provisions of this contract, it is mutually understood that time extensions for changes in the work will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the subcontract completion date will be extended only for those specific elements so delayed and that the remaining subcontract completion dates for all other portions of the work will not be altered.
- (c) When costs are a factor in any determination of a subcontract price adjustment pursuant to any provision of this subcontract, the costs shall be in accordance with the cost principles and procedures contained in Part 31 of the Federal Acquisition Regulations.
- (d) Allowable ownership and operating expense cost for construction plant and equipment in sound workable condition, owned and furnished by the Subcontractor for work requiring adjustments in contract price shall be at the rates shown in the current edition of the US Army Corps of Engineers, Construction Equipment Ownership and Operating Expense Schedule for Region II. Hourly rates for average conditions shall apply. No adjustments shall be made for age of equipment. Hourly rates will be adjusted using formulas in the schedule to reflect current fuel costs. Formulas in the schedule or rates for listed equipment will be used as a basis to determine rates for unlisted equipment. Copies of the schedule (EP-1110-1-8, Volume 2) may be obtained from the U.S. Army Corps of Engineers web site (www.usace.army.mil/usace-docs/).

JSA-401 LIQUIDATED DAMAGES (Jan 2009)

- (a) If the Subcontractor fails to complete the work within the time specified in the subcontract, the Subcontractor shall pay liquidated damages to JSA in the amount of _____ [Contracting Officer insert amount] for each calendar day of delay until the work is completed or accepted.
- (b) If JSA terminates the Subcontractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

JSA-402 INTENT OF DRAWINGS AND SPECIFICATIONS (June 2006)

- (a) The drawings and specifications included in this subcontract are intended to include everything requisite and necessary to complete the entire work properly, notwithstanding the fact that every item necessarily involved may not be specifically mentioned. All work shall be delivered in a complete and undamaged state.

- (b) Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the Subcontractor from performing such omitted or misdescribed details of the work, but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.
- (c) The specifications are divided into sections for convenience only, and by such division of the specifications it is not the intent to define or establish the limits of work of any lower tier subcontractors. It is the Subcontractor's responsibility to define its lower tier subcontractor's limits of work to provide a complete job in accordance with the drawings and specifications, and to insure that all of its lower tier subcontractors and suppliers at whatever level are thoroughly familiar with all provisions of this subcontract, which may affect their work.

JSA-403 PROGRESS SCHEDULES (June 2006)

In accordance with Subcontract Clause FAR 52.236-15, Schedule for Construction Contracts, the Subcontractor shall enter actual progress on the approved progress schedule chart and submit _____ copies of the annotated schedule to the Subcontracting Officer monthly during the life of the Subcontractor. The annotated schedule showing actual progress shall accompany each request for payment.

JSA-404 SUBCONTRACTOR SUBMITTALS (May 2007)

- (a) General. The Subcontractor shall submit all shop drawings, data and samples in accordance with Subcontract Clause FAR 52.236.21 entitled "Specifications and Drawings for Construction", the Technical Provisions and the detailed requirements of this section.
- (b) JSA Rights. JSA shall have unrestricted rights in all shop drawings, as-built drawings and other data submitted pursuant to this subcontract.

Submittal requirements are as detailed in the Specifications and Drawings.

JSA-405 UTILITIES – CONSTRUCTION (June 2006)

- (a) JSA shall make all reasonably required amounts of utilities available to the Subcontractor from existing outlets and supplies, as specified in the subcontract. Unless otherwise provided in the subcontract, the amount of each utility service consumed shall be charged to or paid for by the Subcontractor at prevailing rates charged to JSA or, where the utility is produced by the Government, at reasonable rates determined by JSA. The Subcontractor shall carefully conserve any utilities furnished without charge.
- (b) The Subcontractor, at its expense and in a workmanlike manner satisfactory to the Subcontracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by JSA, the Subcontractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.
- (c) The following utilities will be made available without charge: (i) water and (ii) electric power.
- (d) Telephone: Any necessary telephone service shall be procured and paid for by the Subcontractor.

- (e) Temporary Heating: Only those heating appliances listed and/or approved by a recognized national testing organization shall be permitted for work under this subcontract. Such heating devices shall be installed in accordance with the manufacturer's instructions.

JSA-406 CONSTRUCTION STATUS MEETINGS (June 2006)

The Subcontractor shall be required to attend a monthly construction status meeting with the Subcontracting Officer and the Subcontracting Officer's Technical Representatives. The first meeting will be held within fifteen (15) calendar days after Notice-to-Proceed and at this initial meeting the schedule for future meetings shall be agreed upon. This meeting schedule shall be adhered to for the life of the subcontract unless changed by the Subcontracting Officer.

Attendance is mandatory and shall include the Subcontractor's senior site representative (Superintendent) and such other Subcontractor personnel, including those of lower tier subcontractors that are considered necessary by both parties to conduct the business of this meeting as discussed below. This meeting is intended as a forum for free exchange of information to keep both parties informed as to status of the subcontract work. Minutes of meetings will be prepared by the Subcontracting Officer or designated representative and distributed to all attendees. The Subcontractor shall at each meeting be prepared to address as a minimum the following items:

- (a) Schedule including submittal status, procurement, fabrication, delivery, installation and a 30-day activity look-ahead
- (b) Safety
- (c) Quality
- (d) Change Orders
- (e) Problems/Proposed resolutions
- (f) Any other items that are considered necessary to determine the overall subcontract status

JSA-407 RESERVED

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

(End of Provision)

JSA-500 EXERCISE OF AN OPTION – ARCHITECT-ENGINEER IDIQ

- (a) JSA shall give the Subcontractor a written notice of its intent to extend at least 60 days before the subcontract expires. At least 30 days prior to the end of the Base Period or the end of the applicable Option Period, the Subcontractor shall complete and submit a fee schedule for the option year. If JSA and the Subcontractor negotiate an acceptable fee schedule, JSA shall notify the Subcontractor that the option will be exercised. Issuance of task orders during the Option Period are contingent on the existence of a requirement and funds being available for issuance of a task order in accordance with the Ordering and Task Order Procedures clauses of the Subcontract.
- (b) JSA may also require the Subcontractor to submit an updated qualification package (Standard Form 330 Data) when JSA issues its preliminary notice of intent to extend the term of the subcontract. This qualification package along with information collected concerning the subcontractor's performance on task orders issued under this subcontract will be included as part of JSA's option exercise consideration. Failure to submit updated qualification package and/or poor work performance may, at JSA's discretion, be considered cause not to exercise the option.

JSA-501 PARTNERSHIP MEETINGS

- (a) The Subcontracting Officer, Subcontracting Officer's Representative, and other JSA personnel, as appropriate, will meet periodically with the subcontractor to review the subcontractor's performance. At these meetings, the Subcontracting Officer will apprise the subcontractor of how JSA views the subcontractor's performance and the subcontractor will apprise JSA of problems, if any, being experienced. The subcontractor will also notify the Subcontracting Officer (in writing) of any work being performed, if any, that the subcontractor considers over and above the requirements of the subcontract. Appropriate action shall be taken to resolve outstanding issues.
- (b) These meetings shall be held on an as needed basis.
- (c) The minutes of these meetings will be reduced to writing, signed by the Subcontracting Officer and any other signatures as deemed appropriate, and distributed to the functional area and the subcontractor. Should the subcontractor not concur with the minutes, the subcontractor will set out in writing to the Subcontracting Officer any areas of non-concurrence.

JSA-502 NOTICE OF AWARD

Award of a subcontract resulting from this solicitation may be made by the issuance of a written notice of award. Notwithstanding the requirements to execute formal subcontractual documents, a notice of award shall constitute a binding subcontract when such is mailed (or otherwise furnished) to the successful offeror.

JSA-503 ORDERING

- (a) Any services to be furnished under this subcontract shall be ordered by issuance of task orders by the individuals designated to place orders, and must not exceed the total funds obligated to the subcontract.
- (b) All task orders, verbal or written, are subject to the terms and conditions of this subcontract. In the event of a conflict between the order and this subcontract, the subcontract shall control.
- (c) There will be no task order limitation. .
- (d) There is allowance for time and material task orders on an as needed basis. The quantities of services that will be specified on these individual task orders are estimates only and are not purchased by this subcontract. Except as this subcontract may otherwise provide, if JSA's

requirements do not result in the quantities described in the task order, that fact shall not constitute the basis for an equitable price adjustment.

- (e) Performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the ordering clause or elsewhere in this subcontract, the Subcontractor shall furnish to JSA all services specified in the Schedule and called for by orders issued in accordance with the Ordering clause.
- (f) If JSA urgently requires a deliverable before the earliest date that delivery may be specified under this subcontract or a task order, and if the Subcontractor will not accept an order providing for the accelerator delivery, JSA may acquire the urgently required goods or services from another source.
- (g) Any order issued during the effective period of this subcontract and not completed within that period, shall be completed by the Subcontractor within the time specified in the order. The subcontract shall govern the Subcontractor's and JSA's rights and obligations with respect to that order to the same extent as if the order were completed during the subcontract's effective period; provided, that the Subcontractor shall not be required to make any deliveries under this subcontract one year beyond expiration date.

JSA-504 TASK ORDER PROCEDURES – A-E Subcontract

Generally, task orders to be issued will be on a Fixed-Price basis, and by exception, time and material (T&M) task orders will be issued. If a time and material task order is used, a ceiling price will be pre-established. The following are task order procedures:

Pre-award/Award

- (a) Individual task orders will be awarded with a "Total Price" for FP task orders and a "Ceiling price" for T&M task orders. Labor rates corresponding to annual segments of the period of performance and to applicable task order arrangement are set forth in the subcontract's Section J, Attachment D, titled "Labor Rate Schedule for Orders." Efforts identified in subcontract Section C, "Statement of Work" of the subcontract are described in general terms. Task orders shall be issued to the Subcontractor as necessary for efforts described more specifically in the task order's SOW. The Subcontracting Officer is the only individual authorized to solicit and/or award task orders and modifications thereto under this subcontract.

Any costs involved in the preparation and negotiation of all task orders are to be included in the appropriate overhead and G&A rates contained in this subcontract.

- (b) Task orders shall be issued in accordance with the following procedures:
 - (1) The Subcontracting Officer will furnish the Subcontractor a request for proposal (RFP). The request shall include:
 - i. a description of the specified work required;
 - ii. the anticipated performance period;
 - iii. deliverable requirements;
 - iv. any other pertinent information (such as site or location).Attachment E is a sample of the technical requirements portion of a task order.
 - (2) The Subcontractor shall, within the time specified in the task order RFP, provide the Subcontracting Officer two (2) copies of the proposal, unless submitted electronically, that addresses the following.
 - i. When specified, a comprehensive technical and management approach to accomplish the work effort;
 - ii. a detailed cost proposal; the proposal shall include the estimated number of labor hours per discipline and breakdown of applicable miscellaneous costs on a Cost Estimating Form provided by JSA.

- iii. Any exceptions to the performance schedule in the task order including any required overtime effort;
- iv. relevant technical information.

The time specified for submission of the proposal will be based on the complexity and difficulty of the proposed work. Unless otherwise requested by JSA, the Subcontractor's proposal shall remain valid for a minimum of 60 calendar days to allow appropriate analysis and negotiation of a fixed price for the task order.

NOTE: The preferred method for RFP issuance and subcontractor proposal submission will be through electronic transmission.

- (3) The Subcontracting Officer and technical representatives will review the proposal upon receipt and enter into discussions/negotiations with the Subcontractor as may be necessary. In the event a mutually satisfactory task order cannot be negotiated and a final offer is unacceptable as submitted, the Subcontracting Officer will then have the option to convert the task order to a Request for Quotation and compete the work among qualified A-E firms.
- (4) At the conclusion of discussions/negotiations, the Subcontractor should provide a Confirmation of Negotiations letter or a revised proposal.
- (5) The Subcontracting Officer will issue a task order (Bilateral if >\$100) that will include:
 - i. Subcontract and task order numbers;
 - ii. Statement of Work, including references to applicable specifications;
 - iii. any JSA-furnished property, material, or base support to be made available for performance of the order;
 - iv. the total price of the order for FP task orders or the ceiling price for T&M task orders;
 - v. the schedule of services and/or supplies and period of performance;
 - vi. the Subcontracting Officer's Technical Representative (SOTR) as well as any other necessary points of contact; and
 - vii. any other pertinent information deemed necessary to the performance of the order.
 - viii. Milestone Payment Schedule (if applicable)
- (6) Upon receipt of a written authorization/order issued by the Subcontracting Officer, the Subcontractor shall furnish to JSA the services and/or supplies as set forth in the schedule.
- (7) Travel expenses (per diem, transportation, mileage, etc...) will not exceed unit costs authorized by joint travel regulations.

After Award

- (a) Any communications concerning a task or prospective task order, other than those of a purely technical nature, shall be limited to being between the subcontractor and the Subcontracting Officer or his/her designated representative only.
- (b) The subcontractor will ensure that all language used in the specifications and drawings developed under any task order issued under this subcontract does not cause a conflict with any clause, provision or special condition contained in the construction solicitation. A copy of the current JSA solicitation package is provided for reference. This solicitation package may be updated during the term of this subcontract as required.
- (c) In preparing cost estimates for any task orders issued under this subcontract, the subcontractor shall specifically identify any consultants that they intend to use. JSA reserves the right to approve such consultants and their fees. When a consultant is proposed, the subcontractor shall substantiate their cost plus any mark-ups for overhead, G&A and profit.

- (d) The subcontractor shall notify the Subcontracting Officer, in writing, as soon as possible but not less than 5 calendar days before a specific due date if a submission will be late. This notice shall include a full explanation of the reason/cause of the delay and when the submission can be made.
- (e) The subcontractor's attention is directed to the subcontract clauses that pertain to the Responsibilities of the Architect Engineer entitled "Design within Funding Limitations", clause entitled Responsibility of the Architect-Engineer Contract" and clause entitled "Work Oversight in Architect-Engineer Contracts". The following points are made:
 - (1) The subcontractor shall not intentionally commence on any work that is not authorized by the subcontracting officer. The subcontractor shall carefully review the written technical comments on any submissions for work that is felt to be additional work for which additional compensation, including time is warranted. In such cases, the Subcontracting Officer shall be notified verbally, followed by written notification. This includes any request to expedite performance or provided "extras" of any nature.
 - (2) The subcontractor shall not intentionally remove from the project cost estimate any cost of work that is left in the design documents.
 - (3) If the subcontractor is unable to submit a meaningful proposal or perform at a specific cost/price, including performance terms due to limitations imposed in the statement of work or information not provided, the Subcontractor shall so notify the Subcontracting Officer without delay and withhold performance.

JSA-505 AWARD OF CONSTRUCTION CONTRACTS

No construction subcontract may be awarded to A&E firms that designed the project.

JSA-506 USE OF RECYCLED GOODS

- (a) Unless otherwise specified within the individual task order, all deliverables prepared and submitted under this subcontract shall be printed on post-consumer recycled paper.
- (b) In other areas of work being performed under this subcontract the subcontractor shall incorporate the use of recycled/recovered materials to the maximum extent practicable.

JSA-507 RELEASE OF INFORMATION AND CONFLICTS OF INTEREST

To prevent conflicting roles which may bias the subcontractor's judgment or objectivity, or to preclude the subcontractor from obtaining an unfair advantage in concurrent or future acquisitions, the subcontractor shall be restricted as follows:

The A-E subcontractor (to include associates, subcontractors, joint ventures etc...) will be assigned to create designs and specifications, perform audits, complete assessments, and publish studies that will directly impact future JSA requirements. In support of these efforts, the subcontractor may have access to certain proprietary information and data. The A-E subcontractor is precluded from award of any subcontract or subcontract or from acting as a consultant to other subcontractors for those requirements resulting from its recommendations.

The subcontractor may gain access to proprietary information of other companies during subcontract performance. The subcontractor agrees to enter into company-to-company agreements to (a) protect the other company's information from unauthorized use or disclosure for as long as it is considered proprietary by the other company and (b) refrain from using the information for any purpose other than that for which it was furnished. For information purposes, the subcontractor shall furnish copies of these agreements to the Subcontracting Officer. These agreements are not intended to protect information that is available to JSA or the subcontractor from other sources and furnished voluntarily without restriction.

The above restrictions shall be included in all subcontracts, teaming arrangements, and other agreements calling for performance of work related to this subcontract, unless excused in writing by the Subcontracting Officer.

Information regarding this Subcontract or the undertaking or any data developed hereunder shall not be released, and the name of JSA, Thomas Jefferson National Accelerator Facility, or Jefferson Lab shall not be used in any publications, news releases, advertising, speeches, technical papers, photographs and other releases of information, without prior written approval from JSA.

JSA-508 Design Within Funding Limitations

(a) The A&E Subcontractor shall accomplish the design services required under this Subcontract so as to permit the award of a subcontract, using JSA's standard procurement terms, conditions and procedures for the construction of the facilities designed at a price that does not exceed the estimated construction subcontract price as set forth in paragraph (c) of this clause. When bids or proposals for the construction subcontract are received that exceed the estimated price, the A&E Subcontractor shall perform such redesign and other services as are necessary to permit subcontract award within the funding limitation. These additional services shall be performed at no increase in the price of this subcontract. However, the A&E Subcontractor shall not be required to perform such additional services at no cost to the JSA/Government if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(b) The Subcontractor will promptly advise the Subcontracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the Subcontracting Officer will review the A&E Subcontractor's revised estimate of construction cost. The JSA/Government may, if it determines that the estimated construction subcontract price set forth in this Subcontract is so low that award of a construction subcontract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction subcontract price set forth in paragraph (c) of this clause, or the JSA/Government may adjust such estimated construction subcontract price. When bids or proposals are not solicited or are unreasonably delayed, the JSA/Government shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation.

(c) The estimated construction subcontract price for the project described in this Subcontract is \$_____.

JSA-509 PROJECT COST LIMITATION

If a complete and usable project cannot be provided within project funding limitations, the A-E shall notify the Subcontracting Officer immediately. SURA shall then provide a reduction in project scope or ensure additional funds are available for proposed construction or cancel the project under the terms set forth in this subcontract. JSA shall not re-negotiate the task order fees unless a major change in project scope is necessary.

JSA-510 A-E LIABILITY

In the event that design errors, omissions, or deficiencies are discovered following completion and acceptance of the A-E's project documents, the A-E shall be liable as defined below.

(a) When the suspected error, omission, or deficiency is discovered, JSA shall notify the A-E immediately. The A-E, without additional fee, shall participate in the definition of the problem and shall provide appropriate clarifications or corrections to the subcontract documents. Such clarifications or corrections may include sketches, drawings, specifications, or estimates, and necessary related correspondence.

(b) If a construction modification is required as a result of the error, omission, or deficiency, JSA may pursue recovery of damages from the A-E. The A-E's potential liability for damages is limited to

additional costs which would not have been incurred had the original documents been correct. If the error, omission, or deficiency results in a defect that is impractical to remedy, JSA may pursue recovery damages for lessened value of the facility. The period in which suspected errors, omissions, or deficiencies may be discovered and reported to the A-E for resolution as described above begins immediately upon JSA acceptance of the project documents prepared under this SOW, and ends one year after completion of all work included in those documents. This provision also applies to any documents prepared as a result of an error, omission, or deficiency in the original documents.

JSA-511 ADMINISTRATIVE PROCEDURES FOR CHANGES – A-E SUBCONTRACT

- (a) The subcontractor, in connection with any change, shall furnish a price proposal itemized as required by the Subcontracting Officer. Unless otherwise directed, the proposal shall be in sufficient detail to permit an analysis of all direct and indirect material, labor, equipment, subcontract, and overhead costs, as well as profit. The proposal shall cover all work involved, whether such work was deleted, added or changed. Any amount claimed for lower tier subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefore shall be furnished. The proposal, together with a price breakdown and time extension justification, shall be furnished by the date specified by the Subcontracting Officer.
- (b) Notwithstanding any other provisions of this contract, it is mutually understood that time extensions for changes in the work will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. Then change order granting the time extension may provide that the subcontract completion date will be extended only for those specific elements so delayed and that the remaining subcontract completion dates for all other portions of the work will not be altered.
- (c) When costs are a factor in any determination of a subcontract price adjustment pursuant to any provision of this subcontract, the costs shall be in accordance with the cost principles and procedures contained in Part 31 of the Federal Acquisition Regulations.

JSA-512 BADGE REQUIREMENT – A-E Subcontract

- (a) The following Subcontractor personnel are required to have a picture badge for access to Jefferson Lab. All badges must be returned to JLab upon the completion of the work or when a person no longer works for the designated employer, whichever is sooner.
 - 1. Key personnel and primary design team.
 - 2. Personnel needing access to the Accelerator Site.
 - 3. Personnel needing access inside any building.
 - 4. Personnel working after hours and/or weekends.
- (b) Each person requiring a picture badge shall provide a completed Subcontractor Registration Form and complete required training prior to being issued a badge. Data on Registration Form includes birth date, citizenship, birthplace, and employer's address. Non US Citizens that require a badge will be required to fill out an additional form, Foreign National Information Sheet, and provide documentation of a right to work in United States. Approval for issuance of a badge to a Non US Citizen typically takes two (2) weeks. The Registration Forms will be provided by JLab. After a badge is issued, it requires 24 hours to become activated. Badges are issued in the VARC building (Bldg. 28), Monday through Friday between 8:30 a.m. to 12:00 p.m. and between 2:00 p.m. to 4:30 p.m. Schedule appointments for badges through the SOTR.
- (c) All badges must be returned to Jefferson Lab upon the completion of the work, or when a person will no longer be doing work on the Jefferson Lab Site.

- (d) Access to experimental and certain technical work areas of Jefferson Lab is restricted to personnel who have completed requisite EH&S training and/or orientation, or who are accompanied by a qualified continuous escort. Subcontractors shall comply with all site access restrictions, including temporary postings for special hazards and access control measures. See Division 1 Section "Safety and Health Requirements" for additional requirements.

JSA-600 BLANKET ORDERING AGREEMENT PROVISIONS (June 2006)

- (a) **DESCRIPTION OF AGREEMENT:** The Subcontractor shall furnish the services described herein, if and when requested by the Subcontracting Officer or his authorized representative during the period _____ thru _____.
- (b) **SERVICES TO BE FURNISHED:** Provide the necessary staff, management, equipment, and supplies to (fill in with brief description of services)
- (c) **EXTENT OF OBLIGATION:** JSA is obligated only to the extent of authorized purchases actually made under this Blanket Order Agreement by authorized personnel. Authorized purchases are binding at the time of written acceptance or performance.
- (d) **PRICING:** Prices quoted to JSA shall be as low or lower than those charged under the Subcontractor's most favored customer policy for comparable quantities under similar terms and conditions, in addition to any discounts for prompt payment.
- (e) **PURCHASE LIMITATIONS:** Individual purchases under this Blanket Order Agreement are not to exceed \$100,000 unless otherwise identified on the letter of authorization. JSA Procurement Staff or their designees are authorized to purchase under this agreement up to their level of authority. A separate written notice will be provided to the subcontractor that identified authorized JSA personnel and specifies their purchasing dollar limit.
- (f) **PRICE LIST:** The approved price list is incorporated in this agreement as Attachment #1. Changes to approved lists will be provided within fifteen (15) calendar days to permit review and distribution to ordering activity before the effective date of the price change.
- (g) **ORDERING:** Purchases under this Blanket Ordering Agreement will be made verbally or in writing by persons identified above; see paragraph (e) above. The subcontractor will provide a routine and/or emergency phone number(s) and an e-mail address that allows orders to be placed on a 24-hour a day, 7-day a week basis. For URGENT/EMERGENCY service requests, the JSA contact point will be provided a reply confirmation of receipt of the order and a scheduled response time. This confirmation will be within XX hours of initiation of the order.
- (h) **SUPPLIES:** All items/parts provided as part of these services shall be new, including recycled (not used or reconditioned) and not of such age or so deteriorated as to impair their usefulness or safety; (2) shall be as warranted; and (3) shall not contain any counterfeit or suspect materials or components. Types of counterfeit or suspect materials or components include, but are not limited to: electrical components, piping, fittings, flanges, and fasteners.

JSA-601 PERSONAL SERVICES PROVISIONS (June 2006)

- A. Services that will be provided are generally described in the Memorandum of Understanding which is incorporated as an attachment to this Subcontract. Delivery Orders for services will be issued in accordance with the **Indefinite Quantity, Ordering, and Delivery Order Limitation** provisions herein. The assigned personnel and monthly rate will be agreed to and incorporated into the Delivery Orders.
- B. A description of the categories of personnel that may be assigned to provide services under this Subcontract and the scope(s) of work associated with each category is stated below.

Applicable if Box Marked ☒

- ☐ The Assigned Personnel classified as _____ shall provide the equivalent benefit specified in the delivery orders of at least _____% of a full time Jefferson Lab staff member to accomplish research and other technical support services in support of basic nuclear physics research at Jefferson Lab. The Scope of Work is as follows:
- ☐ The Assigned Personnel shall provide directed research and other technical support services related to the graduate students' course of study towards an advance degree to be awarded by the Subcontractor in support of basic nuclear physics research at Thomas Jefferson National Accelerator Facility. The services to be performed by the Assigned Personnel shall consist of the following tasks:
- C. The Assigned Personnel shall personally perform the services, and no part of the services shall be subcontracted to or performed by any other persons, without the prior written approval of JSA Subcontracting Officer.
- D. The services shall be performed at the Jefferson Lab or vicinity and/or such other locations as may be approved by the JSA Technical Representative.
- E. JSA shall provide such working space, equipment, furniture, fixtures, services and utilities as may be required for the performance of the services by the Assigned Personnel while at Jefferson Lab.
- F. The Subcontractor represents that the Assigned Personnel is/are a formal employee(s) (W-2 tax withholdings required) of the Subcontractor and is paid a salary, which includes travel-time occurring during the Assigned Personnel's normal work hours; is reimbursed for travel and other work-related direct expenses; and is provided prevailing employment-related benefits. The Subcontractor agrees, when JSA deems it necessary or as required to effectuate the performance of this Subcontract, to obtain the specific written consent of the Assigned Personnel to perform any or all of the obligations set forth herein.
- G. Subcontractor shall ensure that the teaching load assigned to Assigned Personnel shall not exceed that which would be proportionate to that of a full-time faculty member based on the fraction of the support of the Assigned Personnel being provided by the University.
- H. Subcontractor shall submit a report on the research activity for each individual ordered under this subcontract to JSA's Technical Representative. Reports shall be due 15 calendar days after the end of each period of performance for each individual. Period of performance is defined as the academic year, summer period, or other specific time period and will be stated on the delivery order for each individual. Funding may be made incrementally due to availability of fiscal year funding.

PERIOD OF PERFORMANCE AND TERMINATION

- A. The term of this Subcontract shall be from _____ through _____, unless this Subcontract is terminated, as provided herein.
- B. JSA or the Subcontractor may terminate this Subcontract, as provided in FAR 52.249-12-Termination Personal Services. In the event of any such termination, the liability of JSA shall be limited to those costs and expenses payable in accordance with the compensation and payment provisions of this Subcontract, for the services performed prior to the effective date of the termination.

COMPENSATION

- A. JSA shall compensate the Subcontractor for the services performed by the Assigned Personnel, in consonance with high professional standards, at the fixed monthly rate specified in the applicable delivery order for each full month of work, or pro-rata portion thereof, performed by the Assigned Personnel, including related travel time, as provided herein.
- B. Assigned Personnel may be authorized in advance to conduct travel by the JSA Technical Representative. If travel is required, the travel amount shall be included in the base order amount under each specific delivery order, authorized in accordance with JSA Clause titled Ordering. The amount is considered a firm fixed amount to cover all travel related expenses incurred for the Assigned Personnel's travel in the performance of services. If authorized by the JSA Technical Representative, JSA may also reimburse the Assigned Personnel directly for travel related expenses not included in the specific delivery order, but only as allowable and authorized under JSA/Jefferson Lab travel policies and guidelines. These reimbursements will normally be handled through the Jefferson Lab Travel Program. Under no circumstance shall this travel amount include overhead or indirect costs.
- C. With prior written authorization of the Subcontracting Officer, JSA shall also reimburse the Subcontractor, at the Subcontractor's actual cost for other direct expenses reasonably and necessarily incurred by the Assigned Personnel in the performance of the services.
- D. The Subcontractor shall be responsible for payment of the Assigned Personnel's salary and expenses, including travel, and to provide all employment related benefits, in accordance with the Subcontractor's normal practice, during the period of this Subcontract. There shall be no liability whatsoever on the part of JSA to compensate the Assigned personnel for or to provide employment-related benefits to the Assigned Personnel in connection with the services performed hereunder, and the Subcontractor shall be and remain solely responsible for, all such liability.

LIMITATION OF OBLIGATION; CEILING PRICE

- A. The total obligation of JSA to make payments under this Subcontract shall in no event exceed the ceiling price specified in each Delivery Order or the funds available (if less than the ceiling price) on each Delivery Order.
- B. JSA shall not be obligated to expend all of such amount or to pay the Subcontractor for costs incurred in excess of such amount. When the expenditures and the anticipated costs of existing commitments of the Subcontractor under each Delivery Order equal one hundred percent (100%) of such ceiling price or available funds, the Subcontractor shall make no further commitments or expenditures and shall be excused from further performance of the services, unless said amount shall have been increased by a written modification to the Delivery Order issued by the Subcontracting Officer.
- C. The Subcontractor shall promptly notify the Subcontracting Officer in writing whenever the Subcontractor has reason to believe that the total cost for the services under each Delivery Order will exceed such ceiling price or available funds, or whenever the aggregate of the expenditures and the anticipated costs of existing commitments of the Subcontractor under the Delivery Order is equal to seventy five percent (75%) of the total of such ceiling price or available funds.
- D. Multiyear Delivery Orders shall incorporate JSA Clause The Availability of Funds and FAR 52.217-2 CANCELLATION UNDER MULTI-YEAR CONTRACTS (OCT 1997).

CONFLICT OF INTEREST

- A. Subcontractor recognizes JSA is a prime contractor of the Government and will obtain assurances that the Assigned Personnel will refrain from activities on behalf of JSA and the Government that could be interpreted as creating a conflict of interest for the Assigned Personnel.

- B. Subcontractor warrants and represents that to the best of its knowledge there exists no direct or indirect private interest of the Assigned Personnel (including corporate stockholdings or other business agreements and obligations) which is, or may appear to be, incompatible with the Assigned Personnel's services under this Subcontract and that the Assigned Personnel is not concurrently performing work on a full-time annual employment basis with any other organization under a cost-type contract with DOE.
- C. Subcontractor agrees to have the Assigned Personnel avoid any activities on behalf of JSA (including participation in proposal, design, or negotiation phases of JSA procurements) which directly or indirectly affect the interest of JSA or Government where the Assigned Personnel has a personal interest in the matter which may be incompatible with the interest of JSA or Government, and to promptly notify the Subcontracting Officer regarding any change in either the Assigned Personnel's private interest or other services under this Subcontract.

CONDUCT OF ASSIGNED PERSONNEL

Subcontractor shall assure that the Assigned Personnel will comply with the following standards of conduct:

- A. Gratuities – The Assigned Personnel shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties, accept any gratuity or special favor from individuals or organizations with whom JSA is doing business, or proposing to do business, in accomplishing the work under this Subcontract.
- B. Use of Privileged Information - The Assigned Personnel shall not use for personal gain or make other improper use of privileged information that is acquired in connection with the work under this Subcontract. In this connection, the term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific developments; medical, personnel or security records of individuals; anticipated materials requirements or pricing actions; possible new sites for DOE program operations; and knowledge of selections of contractors or subcontractors in advance of official announcement.
- C. Incompatibility Between Regular Duties and Private Interests -The Assigned Personnel shall not be permitted to make or influence any decisions on behalf of JSA which directly or indirectly affect the interest of JSA or Government if the Assigned Personnel's personal concern in the matter may be incompatible with the interest of JSA or Government.

INDEMNIFICATION

The Subcontractor shall indemnify, defend, and hold harmless JSA and the Government, their officers, employees and agents from and against all losses and expenses (including costs of attorneys' fees) by reason of any liability that may be imposed by law upon JSA and/or the Government and/or the Subcontractor for any damages sustained by any person or persons on account of any bodily injury, including death at any time resulting there from, any personal injury, or any damage to property arising out of or resulting from the performance of this Subcontract, provided such are due to the negligence or willful acts or omissions of the Subcontractor or the Assigned Personnel.

Also, to the extent permitted by law, the Subcontractor hereby assumes all risk of liability, and shall indemnify, defend, and hold harmless JSA and/or the Government, their officers, employees and agents from and against all losses and expenses (including costs of attorneys' fees) by reason of any liability that may be imposed by law upon JSA and/or the Government and/or the Subcontractor, arising out of or resulting from the existence of a common-law employment relationship in connection with the performance of the services under this Subcontract.

AUTHORIZED ORDERING OFFICIAL

Delivery Orders may be issued only by the JSA Subcontracting Officers.

INDEFINITE QUANTITY

This is an indefinite-quantity subcontract for the supplies or services specified and effective for the period stated herein. Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Any order issued during the effective period of this subcontract and not completed within that period shall be completed by the Subcontractor within the time specified in the order. The subcontract shall govern the Subcontractor's and JSA's rights and obligations with respect to that order to the same extent as if the order were completed during the subcontract's effective period.

ORDERING

- A. Any services to be furnished under this subcontract shall be ordered by issuance of delivery orders by the individuals or activities designated in the schedule of articles.
- B. All delivery orders are subject to the terms and conditions of this subcontract. In the event of conflict between a delivery order and this subcontract, the subcontract shall control.
- C. A delivery order is considered "issued" when JSA deposits the order in the mail or transmits the order by telecommunications or electronically. If the Subcontracting officer issues an order by oral direction to the Subcontractor, that oral direction will be confirmed by sending a copy of the order to the Subcontractor by one of the means stated above.

JSA 602 CONTRACT LABOR BLANKET ORDERING PROVISIONS (March 2007)

- 1. **DESCRIPTION OF AGREEMENT.** The Subcontractor shall furnish contract labor services as specifically described in individual orders, if and when requested by the Subcontracting Officer or other JSA authorized representative, during the period beginning with the date of this Agreement through Indefinite.
- 2. **PRICING.** Prices quoted to JSA shall be as low as or lower than those charged under the Subcontractor's most favored customer policy for comparable services under similar terms and conditions, in addition to any discounts for prompt payment. Subcontractor-initiated changes to approved price lists shall be submitted to the Subcontracting Officer for review at least fifteen (15) calendar days before the effective date of the price change.
- 3. **EXTENT OF OBLIGATION.** JSA is obligated only to the extent of purchases actually made under this Blanket Ordering Agreement by authorized personnel. This is not an exclusive agreement and JSA makes no guarantee that services will be ordered in any quantity under this agreement. The subcontractor shall not perform services exceeding the funds authorized on an individual Delivery Order.
- 4. **ORDERING.** Delivery Orders for services by named subcontractor employee(s) will be issued in writing under this Blanket Ordering Agreement by an authorized individual. Funding amounts authorized on Delivery Orders are ceiling amounts. Actual purchases as evidenced by approved time sheets may vary, and no guarantee is made that the total purchase will equal the funding amount. A separate written notice will be provided that identifies JSA personnel authorized to issue Delivery Orders.
- 5. **TIME SHEETS.** The original or a carbon copy of each employee's approved time sheet is required for invoice processing. Copies or facsimiles (fax copies) are not acceptable. Corrections must be lined through and initialed (the use of correction fluid is not permitted).
- 7. **INVOICES.** SURA shall pay the Subcontractor for the services performed at the rates prescribed for the services performed, and upon the Subcontractor's submission of proper invoices. The Subcontractor shall submit all invoices to:

JSA/JEFFERSON LAB
Finance – Accounts Payable
628 Hofstadter Road, Suite 4
Newport News, VA 23606

Invoices must include this BOA number and period covered, hours worked, and billing rate per hour for each employee.

8. **NOTES REGARDING SERVICE CONTRACT ACT.** The U.S. Service Contract Act applies to all covered service employees under this agreement, including part-time workers and those who work irregular hours. Service employees must be paid for certain holidays and for vacation leave after one year of continuous service, as specified in the current Wage Determination.

- Subcontractors are required to post Department of Labor Publication WH 1313, attached. In addition, subcontractors must either post the most recent Wage Determination or inform each employee who works under the subcontract of their minimum compensation and benefits.
- For guidance on calculating the amount of paid leave due to part-time employees, see the *Code of Federal Regulations* 29 CFR Part 4 Subpart D, "Compensation Standards."
- Subcontractor prices shall include all required Service Contract Act service employee benefits.

9. **CONFLICT OF INTEREST**

Subcontractor recognizes that JSA is a prime contractor of the Government and will assure that its Contract Labor Personnel will refrain from activities on behalf of JSA and the Government that could be interpreted as creating a conflict of interest for the Contract Labor Personnel.

Subcontractor warrants and represents that 1) to the best of its knowledge there exists no direct or indirect private interest of its Contract Labor Personnel (including corporate stockholdings or other business agreements and obligations) that is, or may appear to be, incompatible with the Contract Labor Personnel's services under this Subcontract and 2) that its Contract Labor is/are not currently performing work on a full-time annual employment basis with any other organization under a cost-type contract with the U.S. Department of Energy.

Subcontractor Contract Labor Personnel shall avoid any activities on behalf of JSA (including participation in proposal, design, or negotiation phases of JSA procurements) that directly or indirectly affect the interest of JSA or the Government, where the Contract Labor Personnel has/have a personal interest in the matter that is or may be incompatible with the interest of JSA or the Government. Subcontractor shall promptly notify the Subcontracting Officer regarding any change in either the Contract Labor Personnel's private interest or the other services under this Subcontract.

10. **CONDUCT OF ASSIGNED PERSONNEL**

Subcontractor shall assure that its Contract Labor Personnel will comply with the following standards of conduct:

- A. Gratuities – The Contract Labor Personnel shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties, accept any gratuity or special favor from individuals or organizations with whom JSA is doing business, or proposing to do business, in accomplishing the work under this subcontract.
- B. Use of Privileged Information – The Contract Labor Personnel shall not use for personal gain or make other improper use of privileged information that is acquired in connection with the work under this Subcontract. In this connection, the term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific developments; medical, personnel or security records of individuals; anticipated materials requirements or

pricing actions; possible new sites for DOE program operations; and knowledge of selections of contractors or subcontractors in advance of official announcement.

- C. Incompatibility Between Regular Duties and Private Interests – The Contract Labor Personnel shall not be permitted to make or influence any decisions on behalf of JSA, which directly or indirectly affect the interest of JSA or the Government, if the Assigned Personnel's personal concern in the matter may be incompatible with the interest of JSA or the Government.

JSA Clause Nos. 700 – 799 Cost Reimbursement Clauses

JSA 700 SCHEDULE OF ARTICLES

1. Statement of Work

The Subcontractor shall perform certain research and development work identified as ***[Insert Brief Title of Statement of Work]*** and more fully described in the *Statement of Work* Attachment to this Subcontract **[or Appendix I.]**

The Subcontractor's Principal Investigator assigned to this work is ***[Insert Principle Investigator's Name]***. The Principal Investigator shall not be replaced or reassigned without the advance written approval of the Subcontracting Officer.

The Subcontractor shall submit three copies of the final and any intermediate reports to the Contractor's Procurement Representative (Subcontracting Officer) **or** Contractor's Technical Representative (SOTR), ***[Insert Name of SOTR]*** upon completion of the work and, when the Subcontract contains milestone requirements, on the indicated milestone dates. When requested by the SOTR, the Subcontractor shall submit a draft copy of the final report for review prior to finalization. The Subcontracting Officer's Technical Representative (SOTR) need not approve the Subcontractor's reported conclusions of the research.

2. Report Preparation Requirements

- a. These instructions apply to all formal reports, including the final report, required by the Subcontract. It does not apply to letter reports or reports specifically identified as Milestones in Article 3. Period of Performance in this Subcontract as informal reports.
- b. The final report shall contain a comprehensive summary of all work results and conclusions. All reports shall fairly and completely describe the efforts applied to and the results obtained toward achievement of objectives of the subcontract work. If an objective is not accomplished, such failure shall be fully documented and explained in the report.
- c. Reports shall include the following elements: (a) a brief abstract of the report which describes the overall objectives and results; (b) a full statement of each objective and description of the effort performed and the accomplishments achieved; (c) a list of any publication or information release made of material developed or maintained through the performance of the subcontract; and (d) any other relevant information.

3. Period of Performance

The work described in Article 1, Statement of Work, shall commence upon signature of this Subcontract by both parties and shall be completed on or before ***[Insert End Date]***

☐ If the box at the left is checked "☒" the following milestones are made a part of this Subcontract:

Milestone:	Completion Date:]
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4. Costs and Payments

- a. The estimated cost of the work called for in this Subcontract is \$, and is based upon the

following estimated levels of effort necessary to perform the Subcontract work:

Category: No. of Staff: No. of Months:

- ☐ If the box at the left is checked "☒" the estimate of the work is based on Subcontractor's Cost Proposal Attachment **[or Appendix II]** to this Subcontract.

Check provision below that applies, or include only applicable provision

- ☐ This Subcontract is fully-funded and is subject to the *Limitation of Costs* clause of the General Provisions.
- ☐ This Subcontract is incrementally funded and is subject to the *Limitation of Funds* clause of the General Provisions. The funding amount currently allotted to this Subcontract is \$ and covers *[Describe what the work incrementally funded covers]*
- ☐ Other provision, (describe)

- b. The Contractor will pay the Subcontractor for performance of this Subcontract, unless excluded or limited by other provisions of this Subcontract, the allowable direct costs incident to performance, plus the allocable portion of the allowable indirect costs of the Subcontractor. Allowable and allocable costs shall be determined in accordance with the cost principles of the Allowable Cost and Payment clause of the General Provisions.

5. Invoices for Payment

- a. Payments for Subcontract work shall be made monthly based on invoices submitted by the Subcontractor for work performed. Invoices shall bear the following certification signed by a responsible official of the Subcontractor:
"The undersigned certifies that the information set forth herein is true and correct and may be used as a basis for payment for work."
- b. Invoices must identify the subcontract number, the period covered, and the total expenditures claimed for each of the following categories: salaries, fringe benefits, travel, materials and supplies, equipment, subcontracts/consultants, other direct costs such as rent, when applicable, and indirect or Facility and Administration costs.
- c. Invoices shall be mailed to:
Jefferson Science Associates, LLC
628 Hofstadter Road
Accounts Payable, Suite 4
Newport News, VA 23606
- d. Payments shall be mailed to:
Jefferson Science Associates, LLC
628 Hofstadter Road
Accounts Receivable, Suite 4
Newport News, VA 23606
- e. The Contractor will use its best efforts to process invoices for payment within 30 days of receipt; provided, however, that payments made more than 30 days after receipt of an invoice shall not be subject to penalty, interest, or late charges.
- f. Invoices, which include the cost of property acquired by the Subcontractor at a cost of \$5,000 or more, shall include a description of the property and shall identify the assigned property number; the manufacturer; the Serial number and model number; the acquisition date; the unit price, quantity, and total cost of the property; and the location of the property.

6. Contractor-Furnished and Subcontract-Acquired Property

- a. The Contractor shall furnish the Subcontractor the materials, equipment, and supplies listed in clause JSA 711.
- b. Purchase of equipment or other tangible personal property, which is not identified in the Subcontractor's cost proposal for this Subcontract and for which the Subcontractor is entitled to be reimbursed as a direct item of cost under this Subcontract, shall be approved in advance by the Contractor's Procurement Representative [OR Contract Administrator].
- c. All property furnished by the Contractor or acquired by the Subcontractor, as a direct cost under the Subcontract, title to which vests in the Government, shall be identified, controlled, and protected as required by the Government Property clause of the General Provisions of this Subcontract. Disposition of such property upon completion of this Subcontract shall be as directed by the Contractor's Procurement Representative [OR Contract Administrator].
- d. If the Contractor provides the Subcontractor property that is marked as "high risk property" for use under this award, the Subcontractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of this property in accordance with the policies, practices and procedures for property management contained in the DOE Property Management regulations (41 CFR 109-1.53). Title to all property marked as "high risk property" vests in the Government.

7. Subcontract Administration

- a. The Contractor's Subcontracting Officer for this Subcontract is *[Insert Name of Subcontracting Officer]* is the only person authorized to make changes in the requirements of this Subcontract or make modifications to this Subcontract, including changes or modifications to the Statement of Work and the Schedule. The Subcontractor shall direct all notices and requests for approval required by this Subcontract to the Subcontracting Officer at the following address:

Jefferson Science Associates, LLC
628 Hofstadter Road
Suite 5
Newport News, VA 23606

Any notices and approvals required by this Subcontract from the Contractor to the Subcontractor shall be issued by the Subcontracting Officer.

- b. The Contractor's Subcontracting Officer's Technical Representative (SOTR) for this Subcontract is *[Insert SOTR Name]*. The SOTR is the person designated to monitor the Subcontract work and to interpret and clarify the technical requirements of the Statement of Work. The Technical Representative is not authorized to make changes to the work or modify this Subcontract.

8. Travel Requirements

- a. All travel not included in the Subcontractor's cost proposal must be approved in advance by the Contractor.
- b. All foreign travel must be approved in advance by the Contractor, even if the cost is included in the Subcontractor's cost proposal for this Subcontract.

9. Performance of Work

The Subcontractor will perform the work at a location other than a DOE/NNSA Facility.

10. Incorporated Documents

The following documents are hereby incorporated as Attachments **[or Appendices]** to the Schedule of Articles of this Subcontract:

General Provisions for Standard Research Subcontracts, dated

Statement of Work dated **[or Appendix I]**

Subcontractor's Cost Proposal dated (if applicable) **[or Appendix II]**

Contractor-Furnished Government Property dated **[or Appendix III]**

[List others if applicable.]

JSA 701 PUBLICATIONS

- A. The Subcontractor shall closely coordinate with the Contractor's Subcontracting Officer Technical Representative (SOTR) regarding any proposed scientific, technical or professional publication of the results of the work performed or any data developed under this Subcontract. The Subcontractor shall provide the Contractor an opportunity to review any proposed manuscripts describing, in whole or in part, the results of the work performed or any data developed under this Subcontract at least forty-five (45) days prior to their submission for publication. The Contractor will review the proposed publication and provide comments. A response shall be provided to the Subcontractor within forty-five (45) days; otherwise, the Subcontractor may assume that the Contractor has no comments. Subject to the requirements of Clause 9, the Subcontractor agrees to address any concerns or issues identified by the Contractor prior to submission for publication.
- B. Subcontractor may acknowledge the Contractor and Government sponsorship of the work as appropriate.

JSA 702 NOTICES

- A. The Subcontractor shall immediately notify the Contractor's Subcontracting Officer in writing of: (1) any action, including any proceeding before an administrative agency, filed against the Subcontractor arising out of the performance of this Subcontract; and (2) any claim against the Subcontractor, the cost and expense of which is allowable under the terms of this Subcontract.
- B. If, at any time during the performance of this Subcontract, the Subcontractor becomes aware of any circumstances which may jeopardize its performance of all or any portion of the Subcontract, it shall immediately notify the Contractor's Subcontracting Officer in writing of such circumstances, and the Subcontractor shall take whatever action is necessary to cure such defect within the shortest possible time.

JSA 703 RESPONSIBILITY FOR TECHNOLOGY EXPORT CONTROL

The parties understand that materials and information resulting from the performance of this Subcontract may be subject to export control laws and that each party is responsible for its own compliance with such laws.

JSA 704 DISCLOSURE AND USE RESTRICTIONS FOR LIMITED DATA RIGHTS

Generally, delivery of Limited Rights Data (or Restricted Computer Software) should not be necessary. However, only if Limited Rights Data will be used in meeting the delivery requirements of the subcontract, the following disclosure and use restrictions shall apply to and shall be inserted in, any FAR 52.227-14 Limited Rights Notice on any Limited Rights Data furnished or delivered by the Subcontractor or a lower-tier subcontractor:

- A. These "Limited Rights Data" may be disclosed for evaluation purposes under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed;
- B. These "Limited Rights Data" may be disclosed to other contractors participating in the Government's program of which this Subcontract is a part for information or use in connection with the work performed under their contracts and under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed; and
- C. These "Limited Rights Data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed.

JSA 705 SECURITY REQUIREMENTS

- A. This Subcontract is intended for unclassified, publicly releasable research or development work. The Contractor does not expect that results of the research project will involve classified information or Unclassified Controlled Nuclear Information (UCNI) (See 10 CFR part 1017). However, the

Contractor may review the research work generated under this Subcontract at any time to determine if it requires classification or control as UCNI.

- B. If, subsequent to the date of this Subcontract, a review of the information reveals that classified information or UCNI is being generated under this Subcontract, then the security requirements of this Subcontract must be changed. If such changes cause an increase or decrease in costs or otherwise affect any other term or condition of this Subcontract, the Subcontract shall be subject to an equitable adjustment as if the changes were directed under the Changes clause of this Subcontract.
- C. If the security requirements are changed, the Subcontractor shall exert every reasonable effort compatible with its established policies to continue the performance of work under the Subcontract in compliance with the change in the security requirements. If the Subcontractor determines that continuation of the work under this Subcontract is not practicable because of the change in security requirements, the Subcontractor shall notify the Contractor's Procurement Representative in writing. Until the Contractor's Procurement Representative (Subcontracting Officer or Procurement Director) provides direction, the Subcontractor shall protect the material as directed by the Contractor.
- D. After receiving the written notification, the Contractor's Procurement Representative shall explore the circumstances surrounding the proposed change in security requirements and shall endeavor to work out a mutually satisfactory method to allow the Subcontractor to continue performance of work under this Subcontract.
- E. Within 15 days of receiving the written notification of the Subcontractor's stated inability to proceed, the Contractor's Procurement Representative must determine whether (1) these security requirements do not apply to this contract or (2) a mutually satisfactory method for continuing performance of work under this Subcontract can be agreed upon. If this determination is not made, the Subcontractor may request the Contractor's Procurement Representative (Subcontracting Officer) to terminate the Subcontract in whole or in part. The Contractor's Procurement Representative shall terminate the Subcontract in whole or in part, as may be appropriate, and the termination shall be deemed a termination under the terms of the Termination for the Convenience of the Government clause.

JSA 706 NEW MATERIAL

Unless this subcontract specifies otherwise, the Subcontractor represents that the supplies and components, including any former Government property identified under the Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property clause of this subcontract, are new, including recycled (not used or reconditioned) and are not of such age or so deteriorated as to impair their usefulness or safety. If the Subcontractor believes that furnishing used or reconditioned supplies or components will be in JSA's interest, the Subcontractor shall so notify JSA in writing. The Subcontractor's notice shall include the reasons for the request along with a proposal for any consideration to JSA if JSA authorizes the use of used or reconditioned supplies or components.

JSA 707 USED OR RECONDITIONED MATERIAL, RESIDUAL INVENTORY, AND FORMER GOVERNMENT SURPLUS PROPERTY

- (a) The Subcontractor shall not furnish any item or component which is used or reconditioned material, residual inventory resulting from terminated Government contracts, or former Government surplus property, unless such item or component was listed in the applicable attachment to the offer and approved by the Subcontracting Officer or unless otherwise authorized in writing by the Subcontracting Officer.
- (b) All items or components furnished under this subcontract shall comply with the terms and specifications contained in the subcontract.

JSA 708 COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS

General: Office of Management and Budget (OMB) Circular No. A-21, Cost Principles for Educational Institutions, revised, provides principles for determining the costs applicable to research and development, training, and other work performed by educational institutions under subcontracts with JSA.

- (a) Subcontracts that refer to this FAR Subpart 31.3 for determining allowable costs under subcontracts with educational institutions shall be deemed to refer to, and shall have the allowability of costs determined by the Subcontracting Officer in accordance with, the revision of OMB Circular A-21 in effect on the date of the subcontract.
- (b) Agencies are not expected to place additional restrictions on individual items of cost.

JSA 709 COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS

General: Office of Management and Budget (OMB) Circular No. A-122, Cost Principles for Nonprofit Organizations, sets forth principles for determining the costs applicable to work performed by nonprofit organizations under subcontracts (also applies to grants and other agreements) with JSA.

- (a) Subcontracts which refer to this FAR Subpart 31.7 for determining allowable costs shall be deemed to refer to, and shall have the allowability of costs determined by the Subcontracting Officer in accordance with, the revision of OMB Circular A-122 in effect on the date of the subcontract.
- (b) Agencies are not expected to place additional restrictions on individual items of cost.

JSA 710 COST PRINCIPLES FOR SUBCONTRACTS WITH COMMERCIAL ORGANIZATIONS

This category includes all subcontracts and subcontract modifications for supplies, services, or experimental, developmental, or research work negotiated with organizations other than education institutions (see FAR 31.104), construction and architect-engineer subcontracts (see FAR 31.105), State and local governments (see FAR 31.107) and nonprofit organizations (see FAR 31.108) on the basis of cost.

- (a) The cost principles and procedures in FAR Subpart 31.2 and agency supplements shall be used in pricing negotiated supply, service, experimental, developmental, and research subcontracts and subcontract modifications with commercial organization whenever cost analysis is performed as required by FAR 15.404-1(c).
- (b) In addition, the Subcontracting Officer shall incorporate the cost principles and procedures in FAR Subpart 31.2 and agency supplements by reference in subcontracts with commercial organizations as the basis for--
 - (1) Determining reimbursable costs under
 - (i) cost-reimbursement subcontracts and cost-reimbursement lower tier subcontracts under these subcontracts performed by commercial organizations and
 - (ii) the cost-reimbursement portion of time-and-materials subcontracts except when material is priced on a basis other than at cost (see FAR Part 16.601(b)(3)).
 - (2) Negotiating indirect cost rate (see FAR Subpart 42.7)
 - (3) Proposing, negotiating, or determining costs under terminated subcontracts (see FAR Parts 49.103 and 49.113);
 - (4) Price revision of fixed-price incentive subcontracts (see FAR Parts 16.204 and 16.403);
 - (5) Price redetermination of price redetermination subcontracts (see 16.205 and 16.205); and
 - (6) Pricing changes and other subcontract modifications. [FAC 97-2, 62 FR 51224, 9/30/97, effective 10/10/97]

JSA 711 JSA FURNISHED GOVERNMENT PROPERTY

JSA shall furnish Subcontractor certain government property identified below:

JSA 712 LOWER TIER SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS)

- (a) "Lower tier subcontract," as used in this clause, includes but is not limited to purchase orders, and changes and modifications to purchase orders. The Subcontractor shall notify the Subcontracting Officer reasonably in advance of entering into any lower tier subcontract if--
- (1) The proposed lower tier subcontract is of the cost-reimbursement, time-and-materials, or labor-hour type;
 - (2) The proposed lower-tier subcontract is fixed-price and exceeds either \$25,000 or 5 percent of the total estimated cost of this subcontract;
 - (3) The proposed lower-tier subcontract has experimental, developmental, or research work as one of its purposes; or
 - (4) This subcontract is not a facilities subcontract and the proposed lower-tier subcontract provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment valued in excess of \$10,000 or of any items of facilities.
- (b) (1) In the case of a proposed lower-tier subcontract that (i) is of the cost-reimbursement, time-and-materials, or labor-hour type and is estimated to exceed \$10,000, including any fee, (ii) is proposed to exceed \$100,000, or (iii) is one of a number of lower-tier subcontracts with a single lower-tier subcontractor, under this subcontract, for the same or related supplies or services that, in the aggregate, are expected to exceed \$100,000, the advance notification required by paragraph (a) above shall include the information specified in subparagraph (2) below.
- (2) (i) A description of the supplies or services to be subcontracted.
 - (ii) Identification of the type of lower-tier subcontract, to be used.
 - (iii) Identification of the proposed lower-tier subcontractor and an explanation of why and how the proposed lower-tier subcontractor was selected, including the competition obtained.
 - (iv) The proposed lower-tier subcontract price and the Subcontractor's cost or price analysis.
 - (v) The lower-tier subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other subcontract provisions.
 - (vi) The lower-tier subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this subcontract.
 - (vii) A negotiation memorandum reflecting--
 - (A) The principal elements of the lower-tier subcontract price negotiations;
 - (B) The most significant considerations controlling establishment of initial or revised prices;
 - (C) The reason cost or pricing data were or were not required;
 - (D) The extent, if any, to which the Subcontractor did not rely on the lower-tier subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;
 - (E) The extent to which it was recognized in the negotiation that the lower-tier subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Subcontractor and the lower tier subcontractor; and the effect of any such defective data on the total price negotiated;
 - (F) The reasons for any significant difference between the Subcontractor's price objective and the price negotiated; and
 - (G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade off possibilities considered.
- (c) The Subcontractor shall obtain the Subcontracting Officer's written consent before placing any lower-tier subcontract for which advance notification is required under paragraph (a) above.

However, the Subcontracting Officer may ratify in writing any such lower-tier subcontract. Ratification shall constitute the consent of the Subcontracting Officer.

- (d) If the Subcontractor has an approved purchasing system and the lower-tier subcontract is within the scope of such approval, the Subcontractor may enter into the subcontracts described in subparagraphs, (a)(1) and (a)(2) above without the consent of the Subcontracting Officer, unless this contract is for the acquisition of major systems, subsystems, or their components.
- (e) Even if the Subcontractor's purchasing system has been approved, the Subcontractor shall obtain the Subcontracting Officer's written consent before placing lower-tier subcontracts that have been selected for special surveillance and identified in the Schedule of this contract.
- (f) Unless the consent or approval specifically provides otherwise, neither consent by the Subcontracting Officer to any lower-tier subcontract nor approval of the Subcontractor's purchasing system shall constitute a determination (1) of the acceptability of any lower-tier subcontract terms or conditions, (2) of the allowability of any cost under this subcontract, or (3) to relieve the Subcontractor of any responsibility for performing this subcontract.
- (g) No lower-tier subcontract placed under this subcontract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type lower-tier subcontracts shall not exceed the fee limitations in paragraph 15.903(d) of the Federal Acquisition Regulation (FAR).
- (h) The Subcontractor shall give the Subcontracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Subcontractor by any lower-tier subcontractor or vendor that, in the opinion of the Subcontractor, may result in litigation related in any way to this subcontract, with respect to which the Subcontractor may be entitled to reimbursement from JSA.
- (i) (1) The Subcontractor shall insert in each price redetermination or incentive price revision lower-tier subcontract under this subcontract the substance of the paragraph "Quarterly limitation on payments statement" of the clause at 5.216-5, Price Redetermination-Prospective, 52.216-6, Price Redetermination-Retroactive, 52.216-16, Incentive Price Revision-Firm Target, or 52.216-17, Incentive Price Revision-Successive Targets, as appropriate, modified in accordance with the paragraph entitled "Lower-tier subcontracts" of that clause.

(2) Additionally, the Subcontractor shall include in each cost-reimbursement lower-tier subcontract under this subcontract a requirement that the lower-tier subcontractor insert the substance of the appropriate modified subparagraph referred to in subparagraph (1) above in each lower-tier price redetermination or incentive price revision lower-tier subcontract under the lower-tier subcontract.
- (j) To facilitate small business participation in lower-tier subcontracting, the Subcontractor agrees to provide progress payments on lower-tier subcontracts under this subcontract that are fixed-price subcontracts with small business concerns in conformity with the standards for customary progress payments stated in FAR 32.502-1 and 32.504(f), as in effect on the date of this contract. The Subcontractor further agrees that the need for such progress payments will not be considered a handicap or adverse factor in the award of lower-tier subcontracts.
- (k) JSA reserves the right to review the Subcontractor's purchasing system as set forth in FAR Subpart 44.3.

JSA 713 SUBCONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE

The Subcontractor assumes responsibility for all damage or injury to persons or property occasioned through the use, maintenance, and operation of the Subcontractor's vehicles or other equipment by, or the action of, the Subcontractor or the Subcontractor's employees and agents.

- (a) The Subcontractor, at the Subcontractor's expense, shall maintain adequate public liability and property damage insurance during the continuance of this contract, insuring the Subcontractor against all claims for injury or damage.
- (b) The Subcontractor shall maintain Workers' Compensation and other legally required insurance with respect to the Subcontractor's own employees and agents.
- (c) Neither JSA nor the Government shall be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any vehicle or other equipment by, or the action of, the Subcontractor or the Subcontractor's employees and agents in performing under this contract, and JSA and the Government shall be indemnified and saved harmless against claims for damage or injury in such cases.

JSA 714 ACCESS TO AND OWNERSHIP OF RECORDS

- (a) JSA-Owned Records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the Subcontractor in its performance of this subcontract shall be the property of JSA and shall be delivered to JSA or otherwise disposed of by the Subcontractor either as the Subcontracting Officer may from time to time direct during the progress of the work or, in any event, as the Subcontracting Officer shall direct upon completion or termination of the subcontract.
- (b) Subcontractor-owned Records. The following records are considered the property of the Subcontractor and are not within the scope of paragraph (a) of this clause.
 - (1) Employment-related records (such as worker's compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns, and other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health-related records and similar files), except for those records described by the subcontract as being maintained in Privacy Act systems of records.
 - (2) Confidential Subcontractor financial information, and correspondence between the Subcontractor and other segments of the Subcontractor located away from the subcontracted work (i.e., the Subcontractor's corporate headquarters);
 - (3) Records relating to any procurement action by the Subcontractor except for records that under 48 CFR(DEAR) 970.5204-9, Accounts, Records, and Inspection, are described as the property of the Government; and
 - (4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and
 - (5) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes, and correspondence.
 - (6) The Subcontractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.
 - (7) Patent, copyright, mask work, and trademark application files and related Subcontractor invention disclosures, documents and correspondence, where the Subcontractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to SURA.

- (c) Subcontract Completion or Termination. In the event of completion or termination of this subcontract, copies of any of the Subcontractor-owned records identified in paragraph (b) of this clause, upon the request of JSA, shall be delivered to JSA or its designees, including successor subcontractors. Upon delivery, title to such records shall vest in JSA or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act), as appropriate.
- (d) Inspection, Copying, and Audit of Records. All the records acquired or generated by the Subcontractor under this subcontract in the possession of the Subcontractor, including those described at paragraph (b) of this clause, shall be subject to inspection, copying, and audit by JSA or its designees at all reasonable times, and the Subcontractor shall afford JSA or its designees reasonable facilities for such inspection, copying, and audit; provided however, that upon request by the Subcontracting Officer, the Subcontractor shall deliver such records to a location specified by the Subcontracting Officer for inspection, copying, and audit. JSA or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.
- (e) Applicability. Paragraphs (b), (c), and (d) of this clause apply to all records without regard to the date or origination of such records.
- (f) Records retention standards. Special records retention standards, described at DOE Order 1324.5B, Records Management Program and DOE Records Schedules (version in effect on effective date of subcontract), are applicable for the classes of records described therein, whether or not the records are owned by JSA or the Subcontractor. In addition, the Subcontractor shall retain individual radiation exposure records generated in the performance of work under this subcontract until DOE authorizes disposal. JSA may waive application of these record retention schedules, if, upon termination or completion of the subcontract, JSA exercises its right under paragraph (c) of this clause to obtain copies and delivery of records described in paragraphs (a) and (b) of this clause.
- (g) Flow-down. The Subcontractor shall include the requirements of this clause in all lower-tier subcontracts that are of a cost-reimbursement type if any of the following factors is present:
 - (1) The value of the lower-tier subcontract is greater than \$2 million (unless specifically waived by the Subcontracting Officer);
 - (2) The Subcontracting Officer determines that the subcontract is, or involves, a critical task related to the lower-tier subcontract; or
 - (3) The lower-tier subcontract includes 48 CFR (DEAR) 970.5204-2, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.

JSA 715 ADMINISTRATION OF SUBCONTRACT FUNDING

- (a) The Subcontractor agrees that all future incremental funding shall be accomplished by Administrative Change Modifications and that the funding procedure shall in no way change the Subcontractor's notification obligations as set forth in the "Limitation of Funds" or "Limitation of Costs" clauses.
- (b) In addition to the requirements of the "Limitation of Funds," clause, the Subcontractor shall notify the Subcontracting Officer in writing if at any time the Subcontractor has reason to believe that the total cost to JSA, exclusive of any fee, for the complete performance of this subcontract will be greater or substantially less than the then total estimated cost of the subcontract. Such notification shall give a revised estimate of the total cost for the performance of this subcontract.

