

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			1. CONTRACT ID CODE	PAGE OF PAGES 1a
2. AMENDMENT/MODIFICATION NO. M175	3. EFFECTIVE DATE Nov. 1, 1999	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)	
6. ISSUED BY U.S. Department of Energy TJNAF Site Office 12000 Jefferson Avenue Newport News, VA 23606	CODE	7. ADMINISTERED BY (If other than Item 6)		CODE
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) Southeastern Universities Research Association, Inc. 1200 New York Avenue, NW Suite 710 Washington, D.C. 20005		(f)	9A. AMENDMENT OF SOLICITATION NO.	
			9B. DATED (SEE ITEM 11)	
			10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC05-84ER40150	
		X	10B. DATED (SEE ITEM 13) August 3, 1984	
CODE	FACILITY CODE			

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended,  is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

N/A

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.


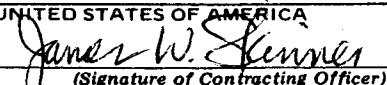
<input type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	Public Law 98-369, FAR 6.302-3(a)(2)(ii), the Secretary's Decision Memorandum dated August 14, 1998, and the HQ Office of Management Systems approval letter dated October 28, 1999
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor  is not,  is required to sign this document and return 2 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The purpose of this modification is to revise the subject contract in its entirety (copy attached) and extend the period of performance until September 30, 2004.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Jerry P. Draayer, President		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) James W. Skinner, Contracting Officer	
15B. CONTRACTOR/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED 10/29/99	16B. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)	16C. DATE SIGNED 10-29-99

**PART I**

**SECTION B**

**SUPPLIES OR SERVICES AND PRICES/COSTS**

**TABLE OF CONTENTS**

B.1 - Service Being Acquired

B.2 - Obligation of Funds and Financial Limitations

B.3 - Fixed Fee

## **PART I**

### **SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS**

#### **B.1 - SERVICE BEING ACQUIRED**

The Contractor shall ensure that the personnel, facilities, equipment, materials, supplies, and services, (except such facilities, equipment, materials, supplies and services as are furnished by the Government), are available and together with all of the foregoing, shall perform in a quality, timely, and cost-effective manner the Statement of Work (SOW) set forth in Part I, Section C.1 of this contract. The Contractor shall perform all work in a manner that complies with applicable health, safety and environmental laws and regulations.

#### **B.2 - OBLIGATION OF FUNDS AND FINANCIAL LIMITATIONS**

The amount presently obligated by the Government with respect to this contract is specified in Clause I.79 - DEAR 970.5204-15 - Obligation of Funds (APR 1994). Other financial limitations are also specified in Clause I.79 - DEAR 970.5204-15 - Obligation of Funds (APR 1994).

#### **B.3 - FIXED FEE**

The fixed fee payable to the Contractor for the performance of the work under this contract commencing November 1, 1999 are specified in Clause I.78 - DEAR 970.5204-13 - Allowable Costs and Fixed Fee (Management and Operating Contracts) (MAR 1998) (Deviation).

**PART I**

**SECTION C**

**DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

**TABLE OF CONTENTS**

C.1 - Statement of Work

C.2 - Plans and Reports

## PART I

### SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

#### C.1 - STATEMENT OF WORK

The Statement of Work to be performed under this contract is as follows:

(a) General Scope of SURA's Undertaking/Engagement of Contractor

The DOE expressly engages SURA to perform research and to design, construct, test, commission, manage, operate, maintain and protect the existing and proposed facilities described below and to perform the work and services described in this contract. SURA undertakes and promises to use its best efforts to design, construct, test, commission, manage, operate, maintain, protect (and if necessary decommission) said existing and proposed facilities and to perform said work and services and satisfy all the terms and conditions herein provided. SURA shall use its best judgment, skill and care in all matters pertaining to the performance of this contract. SURA shall not be required to operate the facilities described below in any manner which it deems unsafe to personnel (including any third parties and members of the public) or the facilities, and SURA shall notify DOE when SURA believes the facilities cannot be operated safely. Such notification shall include a basis for such conclusion and a recommendation for appropriate corrective action.

(b) Description of Work

(1) Jefferson Lab is a laboratory for unclassified research established by DOE as a User Facility providing a unique resource for the DOE Office of Science's scientific program and its related user community. In this regard, Jefferson Lab's primary research mission will be in nuclear physics and any secondary or collateral activities should be compatible with and supportive of this primary mission. As such, the DOE and SURA agree, consistent with other terms of this contract, to provide an open environment to maximize the creativity of Jefferson's scientific resources in an environmentally sound, safe manner with due concern for property protection, quality and economy.

(2) Consistent with paragraph (1) above, SURA shall:

(i) Provide the scientific, technical and administrative leadership, management and skills to sustain and enhance Jefferson Lab

as a forefront user research facility that meets high expectations and standards of its user community.

- (ii) Operate and maintain a continuous wave (CW) electron accelerator capable of producing electron beam of at least 4 billion electron volt (4 GeV) energy, 200 microamperes current at the 4 GeV energy level, and high duty factor, along with associated beam distribution systems, experimental areas and equipment.
- (iii) Develop the scientific and administrative infrastructure, including research and support staff required for future use of the Jefferson Lab facility, and operate the Jefferson Lab facility as a national and international unclassified research center for forefront research, primarily in nuclear physics and other related activities under the auspices of the Office of Science; and,
- (iv) Sustain and enhance in collaboration with the Laboratory's user community, a forefront research program that utilizes Jefferson Lab's resources to seek opportunities with the highest possible scientific merit.
- (v) Design, construct, operate and maintain the necessary related laboratory facilities to support the accelerator operations and physics research program.
- (vi) Provide the necessary facilities to support national and international user research at Jefferson Lab.
- (vii) Conduct experimental and theoretical physics research and host meetings and seminars involving science and technologies related to Jefferson Lab's scope and publish the results of such research in appropriate scientific journals.
- (viii) Develop long-range objectives for the laboratory consistent with its Institutional Plan and in support of DOE's missions. Plan and coordinate upgrades to the accelerator and associated equipment in accordance with the Laboratory's Institutional Plan as approved by DOE and as funding is provided.
- (ix) Support the activities of Jefferson Lab committees such as the Program Advisory Committee (PAC), Technical Advisory Panel (TAP), Administrative Peer Review Committee, Jefferson Lab User Conferences, and such review committees as may assist

SURA in developing and maintaining the world's forefront nuclear physics laboratory.

- (x) Require the use of Jefferson Lab facilities for the purpose of conducting approved experiments/ technology transfer initiatives to be governed by the provisions of a user facility agreement in a form acceptable to the Contracting Officer.
  - (xi) Perform other services in support of or related to the above described work.
  - (xii) Provide or perform all other services reasonably necessary to meet its obligations under this contract.
  - (xiii) Provide Operating & Maintenance Services and EH&S Advisory Services – ARC Building:
    - (1) SURA shall perform the operating & maintenance (O&M) services and environmental, health and safety (EH&S) advisory services in accordance with the Memorandum of Agreement (Appendix J) between the Economic Development Authority of the City of Newport News and the Southeastern Universities Research Association, Inc. of October 1, 1998.
    - (2) The cost incurred by SURA in performing such services shall be in accordance with the provisions of Article I.78 entitled “Allowable Cost and Fixed Fee.”
    - (3) The costs incurred by SURA in performing O&M services shall be reimbursed by the Economic Development Authority in accordance with paragraph 4 of the Memorandum of Agreement. Any costs that are not reimbursed by the Economic Development Authority in accordance with paragraph 4 of the Memorandum of Agreement shall be forwarded to the Contracting Officer for a determination of allowability.
    - (4) SURA will provide an annual report at the end of each fiscal year detailing the costs incurred in performing O&M services and EH&S advisory services for the Economic Development Authority and costs reimbursed by the Economic Development Authority for the O&M services.
- (3) In recognition that the safety and health of workers and the public and the protection and restoration of the environment are fundamental

responsibilities which SURA assumes for work performed under this contract, SURA shall:

- (i) Take necessary actions to minimize serious injuries and/or fatalities and prevent worker exposures and environmental releases in excess of established limits.
  - (ii) In concert with DOE, establish specific environmental, safety, and health performance indicators for activities which are the basis for measuring progress toward continuous improvement.
  - (iii) Establish clear environmental, safety, and health priorities and manage activities in proactive ways that effectively increase protection to the environment and to public and worker safety and health.
  - (iv) Reduce ES&H uncertainties by prioritizing and addressing risks, thereby eliminating threats from site activities.
  - (v) Carry out all activities in a manner that complies with applicable human health, safety and environmental laws and regulations; minimizes wastes; and complies with applicable regulatory requirements and applicable DOE Directives.
  - (vi) Develop and implement an Integrated Safety Management System that is approved by the Contracting Officer.
- (4) Technology Transfer and Cooperation with Industrial Organizations

The Contractor shall contribute to U.S. technological competitiveness through research and development partnerships with industry that capitalize on the Laboratory's expertise and facilities and are compatible with and supportive of the Laboratory's primary mission. Principal mechanisms to effect such contributions are: cooperative research and development, access to user facilities, reimbursable work for non-DOE activities, personnel exchanges, and licenses.

The Contractor shall cooperate with industrial organizations to assist in increasing U.S. industrial competency and contributions to applications of energy science and technology. Such cooperation may include an early transfer of information to industry by arranging for the active participation by industrial representatives in the Laboratory's programs. Cooperation with industrial partners may include long-term strategic partnerships aimed at commercialization of Laboratory inventions or the improvement of industrial products. The Laboratory will respond to specific near-term

technological needs of industrial companies with special consideration given to working with small, small disadvantaged and women-owned businesses. The Laboratory may also capitalize on its location in the industrial Southeast by developing productive relationships with regional and local companies and through forums such as conferences, workshops, and traveling presentations.

Cooperation may also include use by industrial organizations of Laboratory facilities and other assistance as may be authorized, in writing, by the Contracting Officer.

(5) Science and Mathematics Education and Other Cooperation with Research and Educational Institutions

The Contractor shall work extensively with colleges and universities, with special consideration on Historically Black Colleges and Universities/Minority Education Institutions, and programs to enhance science and mathematics education at all levels. Participation by a diverse group of faculty and students in Laboratory programs brings their talents to bear on important research problems and contributes to the education of future scientists and engineers. The Laboratory shall also conduct many programs for precollege students and faculty to enrich mathematics and science education. A particular purpose of these programs is to encourage members of under-represented societal groups to enter careers in science and engineering.

The Laboratory's broad program of cooperation with the academic and educational community and with nonprofit research institutions has the purpose of promoting research and education in scientific and technical fields of interest to DOE's programs and facilitating interrelationships in these fields between the Laboratory and other research and educational institutions. This cooperation may include, but is not limited to, such activities as the following:

- (i) Joint experimental programs with colleges, universities, and nonprofit research institutions;
- (ii) Interchange of college and university faculty and Laboratory staff;
- (iii) Student/teacher educational research programs at the pre-collegiate and collegiate level;
- (iv) Post-doctoral programs;
- (v) Arrangement of regional, national, or international professional meetings or symposia;

- (vi) Use of special Laboratory facilities by colleges, universities, and nonprofit research institutes; or
- (vii) Provision of unique experimental materials to colleges, universities, or nonprofit research institutions or to qualified members of their staffs.

(6) Diversity

The Laboratory shall create and maintain an environment that values diversity, fully utilizes the talents and capabilities of a diverse workforce and does not tolerate discrimination or harassment in any form. The Contractor seeks to recruit a diverse workforce by promoting and implementing Departmental and Laboratory goals with special consideration given to Historically Black Colleges and Universities/Minority Education Institutions. The Contractor will also strive to promote diversity in all of the Laboratory's subcontracting efforts with consideration on the use of small, small disadvantaged and women-owned businesses, and the Small Business Administration's 8(a) program.

(7) International Collaboration

In accordance with DOE policies, and in consultation with DOE, the Contractor will maintain a broad program of international collaboration in areas of research of interest to the Laboratory and to DOE. This collaboration will be both in areas where DOE has formal international cooperation agreements which assign the Contractor a specific role, as well as in areas of general interest to the Laboratory's and DOE's research programs.

This collaboration may include, but is not limited to, such activities as:

- (i) Participation in assigned aspects of formal international agreements;
- (ii) Maintenance of liaison with peer groups in the international R&D community;
- (iii) Participation in programs of international scientific organizations;
- (iv) Developing and proposing to DOE, joint experimental programs and/or work for others from international sponsors; or

(v) Participation in programs involving visits, assignments, or exchanges of staff/students.

(8) General Assistance and Services

The Contractor shall furnish such technical and scientific assistance (including training and other services, material, and equipment), which are consistent with and complementary to the DOE's and Laboratory's mission under this contract, both within and outside the United States. The Contractor may provide these services to the DOE and its installations, contractors, and interested organizations and individuals, as may be authorized, in writing, by the Contracting Officer.

(9) Other Research and Development Work

The Laboratory shall conduct research and development work for non-DOE sponsors which is consistent with and complementary to the DOE's mission and the Laboratory's mission under the contract, does not adversely impact or interfere with execution of DOE-assigned programs, does not place the facilities or Laboratory in direct competition with the domestic private sector, and for which the personnel or facilities of the Laboratory are particularly well adapted and available, as may be authorized, in writing, by the Contracting Officer.

(10) Dissemination of Information

The Laboratory shall undertake activities pertaining to the dissemination of information relating to energy in general and Laboratory programs in particular and the stimulation and encouragement of such work by employees of the Contractor and users of the Laboratory, subject to the patent provisions and other applicable provisions of this contract.

(11) Management and Maintenance of Laboratory Facilities

The Contractor is responsible for the operation, including management and maintenance, of the Laboratory physical plant. This includes the planning in consultation with DOE, and the making of recommendations to DOE, for new buildings, facilities and utilities and alteration of existing buildings, facilities, and utilities on the Laboratory site and elsewhere, including the furnishing of all necessary basic design and operating criteria. The Contractor will provide for the design, engineering, construction, and alteration, by subcontract or otherwise, of such buildings, facilities, and utilities on the Laboratory site and elsewhere as authorized or approved, in writing, from time to time by DOE. Before proceeding with other than design aspects of any project which the Contractor, acting in good faith, considers may reasonably be within the

coverage of the Davis-Bacon Act (40 U.S.C. 276a and following), the Contractor shall obtain a written determination by the Contracting Officer as to the applicability of the Davis-Bacon Act to such project. When it is determined that the Davis-Bacon Act does cover a particular work project, the Contractor shall procure by subcontract the covered work in accordance with DOE approved procedures.

(12) Other Subcontracting

The Contractor shall, when directed by the Contracting Officer, in writing, and may, but only when authorized by the Contracting Officer, as set forth elsewhere in this contract, enter into subcontracts for the performance of any part of the work under this Clause.

(13) Energy Management

The Contractor shall take all reasonable measures to improve the energy efficiency at the Laboratory sites in accordance with paragraph (d) of Clause I.105 - DEAR 970.5204-60 - Facilities Management (NOV 1997).

(c) General Responsibilities of the Parties

(1) Basic Considerations

It is the primary aim of DOE and the Contractor in executing this contract to provide an instrument under which the Laboratory will continue to be strengthened as a research, development and demonstration resource of DOE so that the work outlined in paragraph (a) of this Article will be carried on most effectively. The Parties agree that the following principles are important to the realization of this goal:

- (i) The benefits of Contractor operation of Government-owned research and development installations are most fully attained when the Contractor, within the terms of the contract, effectively brings its management experience and capabilities to bear on the contract activities.
- (ii) The research and development capability of the Laboratory and the strength of universities of the Southeast and the Nation will benefit by a greater degree of participation by highly qualified university and industry staff in programs at the Laboratory.
- (iii) The direction of the Laboratory must be in the hands of highly competent managerial and professional personnel, capable of attracting, retaining and managing a highly skilled and respected workforce of scientific, administrative and support personnel,

possessing skills to manage and operate in a cost-effective manner, a Laboratory with extensive facilities and a wide range of programs.

- (iv) The competence and quality of any research organization is based upon and flows from the competence and quality of those individuals who are actively engaged in the creative scientific and engineering work carried on by the organization.
- (v) The Parties agree that safety of operations and equipment, protection of the environment, and worker and public safety will be given the highest priority in the conduct of Laboratory activities; Provided, however, that whenever decommissioning, decontamination or other major environmental, safety or health projects necessitate substantial funding, DOE will cooperate to the extent feasible with the Contractor to permit the projects to be scheduled and funded in such a way as to minimize interference with ongoing research and development programs.
- (vi) Experience has indicated that high quality basic and applied research work can best be carried on and maintained by permitting the individual investigators to pursue work with the freedom essential for effective creative effort.
- (vii) Applied research and development work entails a greater degree of program coordination both by the Laboratory and by DOE. Responsiveness by the Contractor to DOE program needs and requests strengthens the effectiveness of the Laboratory arrangement.
- (viii) Research and development work at the forefront of the scientific and technical fields which lie within the scope of the Contractor's responsibility requires the most suitable equipment, experimental facilities and library resources available.
- (ix) The management of the business and administrative aspects of the Laboratory must be supportive of a creative and dynamic Laboratory.

In furtherance of the performance of the work under this contract and in light of the foregoing basic considerations, the Parties have agreed upon the statements of their responsibilities as set forth in the following sections, which shall be carried out in a cooperative spirit toward achieving their common objectives.

(2) DOE's Responsibilities

The proper discharge of DOE's responsibilities requires that it shall have the power to exercise general cognizance over the contract work to adequately fulfill these responsibilities, and to have full access to information concerning performance of such work. In order to discharge its responsibilities under this contract, DOE shall, subject to other provisions of this contract:

- (i) Review the Contractor's major policies and procedures affecting administration (such as finance, procurement, human resources, litigation management, employee protection, etc.), environmental, safety and health, and operation (such as maintenance, construction management, facilities, etc.) of the Laboratory.
- (ii) Formulate a coordinated program, taking into consideration proposals submitted by the Contractor, which it can support with funds appropriated by the Congress.
- (iii) Recognize the need, in planning its budgetary and program actions, to consider the role, mission and long-range objectives of the Laboratory as expressed in the approved Institutional Plan.
- (iv) Plan its budgetary and program actions in consultation with the Contractor, with due recognition of the fact that sharp increases and decreases in funding may affect overall Laboratory effectiveness.
- (v) Recognize the need to provide the Laboratory with the facilities and equipment necessary for the effective execution of approved work.
- (vi) Keep the Laboratory and the Contractor advised, where pertinent, of DOE's scientific and technological activities, of information developed within DOE's programs, and of its current long-range objectives.
- (vii) Conduct reviews of program objectives and accomplishments and effectiveness of Laboratory management and consult with the Contractor regarding matters of mutual interest.

(3) Contractor's Responsibilities

The Contractor agrees that the performance of work and services pursuant to the requirements of this contract shall conform to high professional standards. The Contractor shall use its best efforts to efficiently manage the Laboratory in carrying out DOE-approved

programs, in accordance with policies established by DOE and as specifically set forth in other provisions of this contract. The Contractor recognizes DOE is responsible for the conduct of all programs and for assuring that the Government funds are properly and effectively utilized.

In order to discharge its responsibilities under this contract, the Contractor shall, subject to other provisions of this contract:

- (i) Provide technically competent, productive and efficient scientific, engineering, professional, managerial and support personnel capable of performing outstanding, high quality work.
- (ii) Create and maintain at the Laboratory an intellectual environment conducive to the stimulation of imaginative research and development work for carrying out DOE's program.
- (iii) Formulate, review, and approve Laboratory policies and programs.
- (iv) Develop long-range objectives for the Laboratory; formulate and revise an annual Institutional Plan covering the proposed work to be conducted at the Laboratory, together with master plans for staff and facilities required to carry out the recommended work; evaluate the programmatic accomplishments at the Laboratory on a continuing basis; and assure that the efforts at the Laboratory are consistent with the Institutional Plan and are directed toward programs that show the most promise and away from less promising programs which in the judgment of the Contractor should be reduced or eliminated.
- (v) Assure that the results of the scientific and engineering work performed at the Laboratory and funded by DOE, other Federal agencies, or other sponsors for which an exception from full cost recovery has been made are fully and currently reported to DOE and/or the other sponsors, to the scientific and engineering community, to industry, and to the general public following internal review for quality and accuracy by:
  - (A) Following normal scientific and technical practices in the reporting of results through the recognized technical journals and consistent with guidance provided by DOE, through DOE's reporting system; and
  - (B) Furnishing such additional scientific or technical reports as are requested by DOE. The DOE agrees to collaborate with the Laboratory in determining the necessity, form, and frequency of such additional reports.

- (vi) Assure that the Laboratory staff keeps itself abreast of worldwide scientific and technological developments in areas relevant to work under this contract.
- (vii) Recognize the need in developing, formulating and carrying out the policies, programs and contract activities to give due regard to the guidance which DOE may furnish from time to time with respect to its laboratories, as well as DOE guidance relating to programs at the Laboratory.
- (viii) Provide for a wide range of advice from other universities and from high technology industry in determining policies for the operation of the Laboratory.
- (ix) Continue, except as otherwise agreed, to maintain the Laboratory as nearly as may be practicable, consistent with adequate direction and control by the Contractor, as a self-contained administrative unit.
- (x) Establish policies and objectives for cooperative research and educational programs between the scientific and technological community and the Laboratory.
- (xi) Operate the Laboratory's facilities and carry on its programs in a manner designed to protect the health and safety of its employees and the general public and to protect the environment.
- (xii) Consistent with the principles of Integrated Safety Management, assure the safety, operability, and functional adequacy of all Laboratory facilities and systems and comply with applicable DOE quality assurance, environmental, safety, and health standards.
- (xiii) Assure the safeguards and security of all Laboratory facilities and systems and comply with applicable DOE safeguards and security directives as directed by the Contracting Officer.
- (xiv) Manage the Laboratory with prudent business judgment to support a creative and dynamic Laboratory.
- (xv) Keep DOE informed on its major activities under this contract.
- (xvi) Recognize that appraisals are an integral part of DOE administration and be appropriately responsive to such reports and functional and programmatic appraisals conducted by DOE.

- (xvii) Cooperate in every reasonable way with individuals or groups whose expert or consultative services DOE may choose to use to review and evaluate the scientific, technical, or other aspects of the contract work.
- (xviii) Consistent with the principles of Integrated Safety Management, establish and maintain clear and effective operational, environmental, safety and health, and administrative policies and procedures covering the operation of the Laboratory.
- (xix) Review and approve all Laboratory budget proposals, staffing plans, plans for modifying existing facilities and programs, and plans for establishing new facilities and programs.
- (xx) Establish policies regarding the extent to which Laboratory scientific facilities may be made available for use by persons other than the Laboratory staff and to establish criteria and means for deciding priorities among the users of Laboratory facilities. Whenever applicable, due consideration shall be given to the advice of the Laboratory's Program Advisory Committees.
- (xxi) Encourage the training of students, teachers and other research personnel, including university-level students and faculty, at the Laboratory as a means of broadening the training capabilities of the universities of the Southeast and of other educational institutions throughout the country for the purpose of increasing the total capability of the Nation for the training of research personnel.
- (xxii) Secure vigorous participation in the Laboratory's programs by staff from other research institutions and industrial organizations, as appropriate, in a substantial and mutually beneficial manner.
- (xxiii) Assure that, when Laboratory development work has reached the point at which industry can be expected to carry it into productive use, information regarding such work is made generally available to industry.
- (xxiv) Select, manage and direct the employees at the Laboratory and provide the scientific, technical and managerial personnel necessary to maintain a comprehensive scientific laboratory and to perform the work under this contract. Provide such other personnel or services as are necessary to operate and maintain the Laboratory facilities. In establishing or modifying levels of compensation and fringe benefits for employees, it is understood that the Contractor is guided by the following considerations:

- (A) The Contractor should adopt wage, salary, and employee benefit policies and practices which will provide a technically competent, productive and efficient workforce consistent with the terms of this contract. One of the factors to be considered in establishing these policies and practices is the various labor markets, local, national and international, from which it competes for its employees.
  - (B) Subject to other considerations stated in the contract, the normal and typical aspects of wages, hours, and working conditions (which are the substance of collective bargaining) are left to negotiations between the Contractor and organized groups of employees.
- (xxv) Encourage employees to continue their intellectual development and, as the occasion arises, to revitalize or re-orient their activities in order to maintain a staff of maximum capability adaptable to the needs of DOE programs.
  - (xxvi) Regularly assess the performance benefits of contracting out vs. in-house performance and report the results of these assessments to DOE.

(4) Administration of Responsibilities of the Parties

Unless DOE otherwise notifies the Contractor, in writing, DOE's responsibilities under this contract shall be administered by the Jefferson Lab Site Office Contracting Officer, or designated representative. The Contractor shall keep the Contracting Officer advised of the names of persons authorized to represent it with regard to various matters.

(5) Freedom of Publication

Subject to other provisions of this contract, Laboratory investigators shall have full freedom of publication of the results of unclassified basic research work conducted pursuant to this contract, in order to promote scientific progress and technical development, provided that the provisions designed to protect "restricted data", "formerly restricted data", "National Security Information" shall be complied with, that the appropriate patent clearances are obtained, that appropriate licenses and notices are effected, and that DOE policies regarding protection and dissemination of "Applied Technology", Controlled Scientific and Technical Information, or sensitive information are followed. It is agreed

by all Parties that it is desirable in public releases to acknowledge fully the contributions of all parties to work thus reported.

## **C.2 - PLANS AND REPORTS**

The Contractor shall submit periodic plans and reports, in such form and substance as required by the Contracting Officer. These periodic plans and reports shall be submitted at the interval, and to the addresses and in the quantities as specified by the Contracting Officer. Where specific forms are required for individual plans and reports, the Contracting Officer shall provide such forms to the Contractor. The Contractor shall be responsible for levying appropriate reporting requirements on any subcontractors in such a manner to ensure that data submitted is compatible with the data elements that the prime contractor is responsible for submitting to DOE. Plans and reports which may be submitted in compliance with this provision are in addition to any other reporting requirements found elsewhere in other clauses of this contract. Notwithstanding the "Changes" clause of this contract, set forth in Part II, Section I - Contract Clauses, the Contracting Officer may require plans and reports to be submitted pursuant to the above without any adjustment in the fee, if any, under this contract.

**PART I**

**SECTION D**

**PACKAGING AND MARKING**

**TABLE OF CONTENTS**

D.1 - Packaging

D.2 - Marking

## **PART I**

### **SECTION D - PACKAGING AND MARKING**

#### **D.1 - PACKAGING**

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

#### **D.2 - MARKING**

Each package, report or other deliverable shall be accompanied by a letter or other document which:

- (a) Identifies the contract number under which the item is being delivered.
- (b) Identifies the contract requirement or other instruction which requires the delivered item(s).

**PART I**

**SECTION E**

**INSPECTION AND ACCEPTANCE**

E.1 - FAR 52.246-9 - Inspection of Research and Development (Short Form) (APR 1984)

## **PART I**

### **SECTION E - INSPECTION AND ACCEPTANCE**

#### **E.1 - FAR 52.246-9 - INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984)**

The Government has the right to inspect and evaluate the work performed or being performed under the contract, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If the Government performs inspection or evaluation on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

**PART I**

**SECTION F**

**DELIVERIES OR PERFORMANCE**

**TABLE OF CONTENTS**

F.1 - Period of Performance

F.2 - FAR 52.242-15 - Stop Work Order (AUG 1989) - Alternate I (APR 1984)

F.3 - Principal Place of Performance

## **PART I**

### **SECTION F - DELIVERIES OR PERFORMANCE**

#### **F.1 - PERIOD OF PERFORMANCE**

In accordance with this Contract Modification M175, the performance of the work described in Part I, Section C - Description/Specifications/Work Statement shall commence on October 1, 1999 and shall continue up to and including September 30, 2004. This Modification M175 is an extension of Contract DE-AC05-84ER-40150, dated August 3, 1984 and currently in effect through September 30, 2004.

#### **F.2 - FAR 52.242-15 - STOP WORK ORDER (AUG 1989) - ALTERNATE I (APR 1984)**

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either --
  - (1) Cancel the stop-work order; or
  - (2) Terminate the work covered by the order as provided in the Termination clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected, and the contract shall be modified, in writing, accordingly, if --

- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
  - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

### **F.3 - PRINCIPAL PLACE OF PERFORMANCE**

The principal place of contract performance is at the site of the Thomas Jefferson National Accelerator Facility (otherwise known as Jefferson Lab) in Newport News, Virginia.

**PART I**

**SECTION G**

**CONTRACT ADMINISTRATION DATA**

**TABLE OF CONTENTS**

G.1 - DOE Contracting Officer

G.2 - Contract Administration

G.3 – Designation of Contracting Officer’s Representative (COR)

## **PART I**

### **SECTION G - CONTRACT ADMINISTRATION DATA**

#### **G.1 - DOE CONTRACTING OFFICER**

For the definition of Contracting Officer see Part II, Section I, Clause I.1 - DEAR 952.202-1 - Definitions (OCT 1995), of this contract. The Contracting Officer is the only individual who can:

- (1) assign additional work within the general scope of the Statement of Work of the contract;
- (2) issue a change as defined in the "Changes" clause of the contract;
- (3) change any of the expressed terms, conditions or specifications of the contract;
- (4) accept non-conforming work; or
- (5) waive any requirement of this contract.

#### **G.2 - CONTRACT ADMINISTRATION**

The contract will be administered by:

U.S. Department of Energy  
Jefferson Lab Site Office  
12000 Jefferson Avenue  
Newport News, Virginia 23606

Written communications shall make reference to the contract number and shall be mailed to the above address except for correspondence regarding patent or intellectual property related matters which should be addressed to:

U.S. Department of Energy  
Oak Ridge Operation Office  
Office of Chief Counsel (CC-10) - Intellectual Property  
200 Administration Road  
Oak Ridge, TN 37830

Information copies of patent related correspondence should be sent to the Contracting Officer.

### **G.3 - DESIGNATION OF CONTRACTING OFFICER'S REPRESENTATIVE (COR)**

- (a) (1) The Contracting Officer's Representative for this contract is the Manager of the Jefferson Lab Site Office. The alternative COR is the Deputy Manager of the Jefferson Lab Site Office. The alternate COR has the full authority of the COR in his absence.
- (2) The above-named position is designated the authorized COR for this contract. As such, this individual is responsible for monitoring, giving progress reports to the Contracting Officer and overall technical surveillance of services to be performed under this contract and should be contacted regarding questions or problems of a technical nature. In no event will any understanding or agreement, modification, change order, or matter deviating from the terms of the basic contract between the Contractor and any person other than the Contracting Officer be effective or binding upon the Government.
- (3) When, in the opinion of the Contractor, the COR requests effort outside the existing scope of the contract, the Contractor will promptly notify the Contracting Officer in writing. No such action will be taken by the Contractor under such technical instruction unless the Contracting Officer has issued a contractual change.

(b) List of duties to be performed by the COR in the administration of this Contract:

- (1) Consistent with the provisions of this contract, furnish direction to the contractor as required for the satisfactory accomplishment of the work within the scope of work and terms and conditions of the contract. As a general rule, such direction would take the form of transmitting requirements as opposed to prescribing detailed procedures.

COR has the authority to suspend work for environmental, safety, and health noncompliance reasons, or when a clear and present danger exists to workers, members of the public, or the environment. Clear and present danger is a condition or hazard which could reasonably be expected to cause death or serious harm to workers, members of the public, or the environment immediately or before such condition or hazard can be eliminated through normal procedures. The Contracting Officer may further delegate the authority to suspend work to the Surveillance Representatives identified in the "Jefferson Lab Site Office Surveillance Representative Program Description."

- (2) Administer and exercise oversight of the contractor's performance.
  - (3) Assure that changes in the statement of work or period of performance are issued by the written contract modification by the Contracting Officer before the contractor proceeds with the changes.
  - (4) Interpret the technical requirements of the contract for the Contractor.
  - (5) Report to the Contracting Officer all technical questions arising from the contract which cannot be resolved without increased costs, alterations, or changes to the contract's statement of work.
  - (6) Review progress, technical, and management reports and determine whether work accomplished is commensurate with approved budgets.
  - (7) Inform the Contracting Officer of any performance failure by the contractor.
  - (8) Assure that the Department meets its contractual obligations to the contractor, including the government-furnished equipment and services called for in the contract, and timely government comments on, or approval of, the required contract deliverables.
  - (9) Responsible for the inspection and acceptance of services performed, including deliverables.
- (c) For the purpose of administration of contract matters which are legally based, such as matters relating to litigation and claims which have been initiated against the contractor, or which the Contractor (with the Contracting Officer's approval) has initiated, or matters which are related to the Contractor's retention of outside legal counsel for consultative purposes, the Contracting Officer has appointed attorneys in the Oak Ridge Operations Office of the Chief Counsel as Contracting Officer's Representatives. The Contracting Officer may also appoint other attorneys in the Office of Chief Counsel, as he or she deems necessary, to serve as Contracting Officer's Representative.

**PART I**

**SECTION H**

**SPECIAL CONTRACT REQUIREMENTS**

**TABLE OF CONTENTS**

<b>CLAUSE NO.</b>	<b>TITLE OF CLAUSE</b>	<b>PAGE NO.</b>
H.1	ADDITIONAL DEFINITIONS	1
H.2	LABORATORY FACILITIES	3
H.3	COMMUNICATIONS AND TRUST	4
H.4	LONG-RANGE PLANNING, PROGRAM DEVELOPMENT AND BUDGETARY ADMINISTRATION	5
H.5	WORK FOR OTHERS FUNDING AUTHORIZATION	6
H.6	DEAR 970.70 - AGREEMENTS TO PERFORM NON DOE ACTIVITIES	6
H.7	CARE OF LABORATORY ANIMALS	7
H.8	PROTECTION OF HUMAN SUBJECTS	8
H.9	EQUAL OPPORTUNITY PRE-AWARD CLEARANCE OF SUBCONTRACTS	8
H.10	ADDITIONAL ITEMS OF ALLOWABLE AND UNALLOWABLE COSTS	8
H.11	RESERVED	9
H.12	COSTS ASSOCIATED WITH WHISTLEBLOWER ACTIONS	9
<b>CLAUSE NO.</b>	<b>TITLE OF CLAUSE</b>	<b>PAGE NO.</b>

H.13	LIABILITY WITH RESPECT TO COST ACCOUNTING STANDARDS	11
H.14	PROCEDURE TO DISALLOW COSTS	12
H.15	FINANCIAL MANAGEMENT SYSTEM	12
H.16	COST MANAGEMENT REPORTS	12
H.17	PRIVACY ACT RECORDS	13
H.18	PATENT INDEMNITY SUBCONTRACTS	13
H.19	AUTHORIZATION AND CONSENT IN COPYRIGHT	13
H.20	ROYALTY INFORMATION DURING TERM OF CONTRACT	14
H.21	RESERVED	14
H.22	RESERVED	14
H.23	OTHER PATENT RELATED MATTERS	15
H.24	INTER-CONTRACTOR PURCHASES	17
H.25	DEAR 970.2210 - SERVICE CONTRACT ACT OF 1965 (41 USC 351)	17
H.26	DEAR 970.2206 - WALSH-HEALY PUBLIC CONTRACTS ACT	17
H.27	INCORPORATION OF REVISED FAR AND DEAR CLAUSES AND DEPARTMENTAL POLICIES AND PROCEDURES	18
H.28	CONTRACTOR'S RIGHT TO TERMINIATE	18
H.29	SURA CENTRAL OFFICE EXPENSES	19
H.30	ENVIRONMENTAL CERTIFICATIONS	19
H.31	PERFORMANCE MEASURE REVIEW	20

<b>CLAUSE NO.</b>	<b>TITLE OF CLAUSE</b>	<b>PAGE NO.</b>
H.32	USE OF OBJECTIVE STANDARDS OF PERFORMANCE, SELF ASSESSMENT	

	AND PERFORMANCE EVALUATION	21
H.33	CAP ON LIABILITY	23
H.34	EXTERNAL REGULATION	24
H.35	CONTRACTOR CONTRIBUTIONS	24
H.36	ADVANCE UNDERSTANDING ON COSTS	25
H.37	ENVIRONMENTAL PROTECTION, SAFETY AND HEALTH – WORK SMART STANDARDS	29
H.38	PROPERTY PROTECTION FACILITY	34
H.39	CLASSIFIED RESEARCH AND INFORMATION	34
H.40	NOTICE REGARDING THE PURCHASE OF AMERICAN – MADE EQUIPMENT AND PRODUCTS – SENSE OF CONGRESS	35
H.41	LOBBYING RESTRICTIONS (ENERGY & WATER APPROPRIATIONS ACT, 1999)	35

CLAUSE H.1 - ADDITIONAL DEFINITIONS

- (a) "Contractor" means the Southeastern Universities Research Association, Inc., a non-profit corporation organized under the laws of the Commonwealth of Virginia for educational and scientific purposes; also referred to as "SURA."
- (b) "Laboratory" means the Thomas Jefferson National Accelerator Facility in Newport News, Virginia, which is also referred to as "TJNAF" or "Jefferson Lab." (Previously known as the "Continuous Electron Beam Accelerator Facility" or "CEBAF.")
- (c) The term "someone acting as the Laboratory Director" means the person appointed as Laboratory Director, the Deputy Director acting in the absence of the Laboratory Director, or a person specified in writing to have authority to act in the absence of the Laboratory Director and Deputy Director.
- (d) Except as otherwise provided in this contract, the term "Contractor's managerial personnel" means the Contractor's directors, officers [trustees] and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of (1) all or substantially all of the Contractor's business; or (2) all or substantially all of the Contractor's operation at the Laboratory or any separate location at which this contract is being performed, i.e., Laboratory Director [plus appropriate second tier, e.g., Deputy Director, Chief Operating Officer, etc.] or someone acting as the Laboratory Director.
- (e) The term "DOE Directive" means DOE Orders and Notices, Modifications thereto, and other forms of directives, including for purposes of this contract those portions of DOE's Accounting and Procedures Handbook applicable to integrated Contractors, issued by DOE. The term does not include temporary written instructions by the Contracting Officer for the purpose of addressing short-term or urgent DOE concerns relating to health, safety, or the environment.
- (f) "TJNAF" or "Jefferson Lab" means the Thomas Jefferson National Accelerator Facility in Newport News, Virginia, which is also referred to as "the Laboratory."
- (g) "Government" means the government of the United States of America as represented by the DOE.
- (h) "Program Advisory Committee" also referred to as "PAC" is a SURA established committee, comprised of distinguished physicists (experimental and theoretical) from outside Jefferson Lab, charged with the responsibility of reviewing and recommending priorities for the scientific proposals from the international and national physics community for experiments to be performed at Jefferson Lab. Selection criteria to be utilized by the PAC reflect the highest possible scientific merit as the highest value.
- (i) "SURA Visiting Committee" is a SURA established committee, appointed by the President of SURA, composed of Laboratory Directors and Distinguished Senior

## Section H

Scientists, to perform an on-site assessment of the overall management of Jefferson Lab.

- (j) "Technical Advisory Panel" also referred to as "TAP" is a SURA established advisory committee that assist SURA in deliberating and considering questions and issues of technical complexity regarding accelerator operations and experimental equipment.
- (k) "User Facility" in reference to Jefferson Lab means an open laboratory for unclassified basic research, which serves the international scientific community. The research program is recommended to the Laboratory Director by the Program Advisory Committee (PAC) from written proposals submitted for international research collaborations. The PAC, composed of leading scientists, evaluates the research proposals following oral presentations by collaborating spokespersons, and the basis of scientific merit, the suitability of the research for Jefferson Lab, and the qualifications of the research collaborators.
- (l) "Research" means work toward increasing knowledge in science, attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques; and attempts to advance the state of the art in these issues.
- (m) "Necessary and Sufficient" means a process that uses a specific protocol and provides for the establishment of a set of standards that will provide a level of protection agreed upon by the Department and the M&O contractor. The objective of the process is to promote a culture based on Environment, Safety and Health (ES&H) standards tailored to the work at the site.
- (n) "Necessary Standards" means those standards that are mandated by law or regulation and have a direct impact on the level of protection provided to physically protect the public, the workers and the environment from identified hazards currently present at Jefferson Lab. Certain DOE Radiological Directive Requirements have been included in the "Necessary Standards" set where no other applicable law or regulation existed.
- (o) "Sufficient External Standards" - These standards consist of two categories:
  1. A "Consensus Standard" from a "Nationally Recognized Organization" that has been specifically referenced in a law or regulation already identified in the "Necessary Column" of the "Set" and is thereby made mandatory by that reference, or
  2. A law, regulation, or consensus standard that is not the primary standard for protection but a standard that the Necessary and Sufficient ID Team concluded has value and should supplement the "Necessary Standards" in order to further ensure that the agreed upon level of protection of the people and environment is maintained.

## Section H

- (p) "Sufficient Internal Standards" means those Chapters/Procedures in the contractor's EH&S Manual which, when taken together with the specific provisions in the "Necessary" and "Sufficient External" Standards identified in the "Set" and with other documents, enable the Contractor to implement an agreed to level of protection of people and the environment.
- (q) "EH&S Administrative Laws and Regulations List" means a list of laws, regulations, and other legally mandated requirements resulting from the Jefferson Lab Directives Review Process that do not serve to directly protect a person or the environment from a hazard but addresses record keeping, reporting requirements, plans, etc., that are considered administrative and managerial in nature.
- (r) "Contractor's EH&S Manual" is one of the Contractor's means of implementing laws, regulations and other requirements agreed to during the Necessary and Sufficient process and the Directives Review Process as applicable to the Jefferson Lab.
- (s) "Standard" means a written law, regulation, national consensus standard, internal standard or DOE Directive requirement that provides a rule or measure that is recognized as an acceptable method to either protect a person or the environment from hazards or provide further assurance of an agreed to level of protection of people and the environment.

### CLAUSE H.2 - LABORATORY FACILITIES

Laboratory Facilities. DOE agrees to continue to furnish and make available to the Contractor, for its possession and use in performing the work under this contract, the Laboratory facilities designated as follows:

- (a) The Government-owned or leased land, buildings, utilities, equipment and other facilities situated at the Laboratory site in Newport News, Virginia;
- (b) Government-owned or leased facilities at such other locations as may be approved by DOE for use under this contract.

DOE reserves the right to make part of the above-mentioned land or facilities available to other Government agencies or other users on the basis that the responsibilities and undertakings of the Contractor will not be unreasonably interfered with. Before exercising its right to make any part of the land or facilities available to another agency or user, DOE will confer with the Contractor.

Subject to mutual agreement, other facilities may be used in the performance of the work under this contract.

### CLAUSE H.3 - COMMUNICATIONS AND TRUST

(a) Public Affairs and News Releases

- (1) The Parties agree that each has an obligation and commitment to academic freedom and openness in public information, inquiry and involvement. The Parties also recognize the importance of coordination with each other with regard to areas covered in this Clause so as to achieve public policy objectives important to the nation. As a federal agency, DOE must assure that news releases which describe its policies and procedures as related to the operation of its national scientific laboratories do so on an accurate and timely basis. Accordingly, the Parties recognize the importance of advanced coordination of major news media activities, including new releases, major announcements and significant interactions with national news media.
- (2) Consistent with these principles, the Parties will exercise diligent efforts to inform each other, in advance, of significant public affairs events or other major activities. When such advance exchange is not possible operationally, each party shall promptly furnish the released information to the other party concurrent with its release.
- (3) The Contractor shall not release information attributed directly to DOE or which purports to represent established DOE policy without advance concurrence of DOE. Nothing in this Article shall be construed so as to limit the right of the Contractor to publicize the results of its scientific research, consistent with the advance coordination principles outlined above.
- (4) In all public releases of information in communication products related to the Laboratory, identification of the facility as a Department of Energy facility shall be made prominently in the communication product involved. The inclusion of such a standard statement does not replace, however, the requirement for prominent identification of the Laboratory as a DOE facility in an appropriate editorial context in the communications product.
- (5) Nothing in this Clause is intended to interfere with requirements associated with information, which has received national security classification.

(b) Public Involvement

- (1) The Contractor agrees to establish community relations and/or public involvement programs and initiatives appropriate to the Laboratory activities involved and the stakeholder interests affected.
- (2) DOE recognizes such activities as an integral component of Contractor management responsibilities in the execution of the contract. The Parties recognize their mutual responsibilities to coordinate public involvement activities and to coordinate all related external communications consistent with

## Section H

the principles outlined in paragraph (a), Public Affairs and News Releases, above.

- (3) In carrying out Laboratory public involvement activities, the Contractor agrees that it will make no statements contrary to DOE policy or enter into any commitments with external parties regarding departmental actions without DOE concurrence.

### CLAUSE H.4 - LONG-RANGE PLANNING, PROGRAM DEVELOPMENT AND BUDGETARY ADMINISTRATION

- (a) Basic Considerations. Throughout the process of planning, and budget development and approval, the Parties recognize the desirability for close consultation, for advising each other of plans or developments on which subsequent action will be required, and for attempting to reach mutual understanding in advance of the time that action needs to be taken.
- (b) Institutional Planning. It is the intent of the Parties to develop annually an Institutional Plan covering a five-year period. Development of the Institutional Plan is the strategic planning process by which the Parties, through mutual consultation, reach agreement on the general types and levels of activity which will be conducted at the Laboratory for the period covered by the plan. The Institutional Plan approved by DOE provides guidance to the Laboratory for long-range planning of programs, site and facility development, and for budget preparation. It also serves as a baseline for placement of work at the Laboratory.
- (c) Work Authorization and Financing

In accordance with the basic principles stated in paragraph (a) of this Clause, DOE approval of the program proposals and budget estimates will be reflected in work authorizations and financial plans developed and issued to the contractor before work can commence.

### CLAUSE H.5 - WORK FOR OTHERS FUNDING AUTHORIZATION

Any uncollectible receivables resulting from the Contractor utilizing Contractor corporate funding for reimbursable work shall be the responsibility of the Contractor, and the United States Government shall have no liability to the Contractor therefor. The Contractor is permitted to provide advance payment utilizing contractor corporate funds for reimbursable work to be performed by the Contractor for a non-Federal entity in instances where advance payment from that entity is required under the Laws, Regulations, and DOE Directives clause of this contract and such advance cannot be obtained. The Contractor is also permitted to

## Section H

provide advance payment utilizing Contractor corporate funds to continue reimbursable work to be performed by the Contractor for a Federal entity when the term or the funds on a Federal interagency agreement required under the Laws, Regulations, and DOE Directives clause of this contract have elapsed. The Contractor's utilization of Contractor corporate funds does not relieve the Contractor of its responsibility to comply with all requirements for Work for Others applicable to this contract.

### CLAUSE H.6 - DEAR 970.70 AGREEMENTS TO PERFORM NON-DOE ACTIVITIES

- (a) Subject to the prior written approval of the Contracting Officer, and in compliance with applicable requirements imposed by the Contracting Officer pursuant to clause I.110 - Laws, Regulations, and DOE Directives, the Contractor may, through the Laboratory, perform non-DOE activities which are consistent with and complementary to the DOE's mission and the Laboratory's mission under the contract, involving the use of Laboratory equipment, facilities, or personnel. Such proposed work may be for non-Federal entities or other Federal agencies. The request for such approval shall set forth, in detail, the nature of the outside work to be performed, the Laboratory equipment, facilities or personnel required, and the financial and contractual arrangements proposed to pay for the cost of such work. The Contracting Officer shall consider such a request, being guided, among other factors, by the current or future needs of DOE's programs for the equipment, facilities, or personnel to be utilized in the performance of such outside work. Primary considerations in approving such work are that the proposed work will not place the Laboratory in direct competition with domestic private sector, will not adversely impact execution of the Laboratory's assigned programs, and will not create a potentially detrimental future burden on commitment of DOE resources. If the Contracting Officer approves such a request, the Contractor and DOE shall agree upon the terms and conditions which would apply to such work. This agreement may provide for receipt by the Government of all or part of such sum as represents the payment to be received by the Contractor for such outside work; provided, however, that DOE may contribute the use of certain equipment, facilities, or personnel to the Laboratory for the performance of such outside work if it determines that it desires to foster the activity in some measure. Except as otherwise approved by DOE, all clauses of this contract shall be deemed to be applicable to the performance of such work. This Clause shall not be construed as amending or superseding the requirements of clause C.1, Statement of Work, set forth in Part I, Section C.
- (b) The Contractor shall promptly advise the Contracting Officer of any advance notices of, or solicitations for, a major system acquisition requirement received from other Federal agencies pursuant to FAR 34.005 which would logically involve DOE facilities or resources operated or managed by the Contractor. The Contractor shall not respond to or otherwise propose to participate in response to the requirements of such solicitations unless the Contractor has obtained written approval of the Contracting Officer.

CLAUSE H.7 - CARE OF LABORATORY ANIMALS

- (a) Before undertaking performance of any contract involving the use of laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with Section 6, Public Law 89-544, Laboratory Animal Welfare Act, August 24, 1966, as amended. The Contractor shall furnish evidence of such registration to the Contracting Officer.
- (b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in paragraph (a) above.
- (c) In the care of any animals used or intended for use in the performance of this contract, the Contractor shall comply with USDA regulations governing animal care and usage, as well as all other relevant local, State, and Federal regulations concerning animal care and usage. In addition, the Contractor will ensure that research will be conducted in a facility that either: (i) has a current National Institutes of Health (NIH) assurance number for animal care and usage, or (ii) is currently accredited for animal care and usage by an appropriate organization such as the American Association for Accreditation of Laboratory Animal Care, Inc. (AAALAC), or (iii) has a DOE Assurance Plan Number.

CLAUSE H.8 - PROTECTION OF HUMAN SUBJECTS

Before undertaking the performance of any research involving the use of human subjects, the provisions of 10 CFR 745, Federal Policy for the Protection of Human Subjects, must be complied with. This requirement applies to research undertaken with DOE support, work for others, and collaborations with other institutions.

CLAUSE H.9 – EQUAL OPPORTUNITY PRE-AWARD CLEARANCE OF SUBCONTRACTS

Notwithstanding the clause I.85 of this contract entitled “Contractor Purchasing System,” the Contractor shall not enter into a first-tier subcontract for an estimated or actual amount of \$10 million or more without obtaining in writing from the Contracting Officer a clearance that the proposed subcontractor is in compliance with equal opportunity requirements and therefore is eligible for award.

CLAUSE H.10 - ADDITIONAL ITEMS OF ALLOWABLE AND UNALLOWABLE COSTS

ITEMS OF ALLOWABLE COSTS:

## Section H

- (a) Subject to the approval or ratification, in writing, of the Contracting Officer, litigation expenses (including reasonable counsel fees and the premium for bail bond) necessary to defend adequately any member of the Contractor's internal guard force against whom a civil or criminal action is brought, where such action is based upon lawful act or acts of the guard undertaken by him in the general course of his duties for the purpose of accomplishing and fulfilling the official duties of his employment.
- (b) Rentals and leases of land, buildings, and equipment owned by third parties, allowances in lieu of rental, charges associated therewith and costs of alteration, remodeling and restorations where such items are used in the performance of the contract, except that such rentals and leases directly chargeable to the contract shall be subject to such approval by the Contracting Officer as set forth in Part III, Attachment J.7, Appendix G.
- (c) Stipends and payments made to reimburse travel or other expenses of researchers and students who are not employed under this contract but are participating in research, educational or training activities under this contract to the extent such costs are incurred in connection with fellowship, international agreements, or other research, educational or training programs approved by the Contracting Officer.
- (d) Payments to educational institutions for tuition and fees or institutional allowances in connection with fellowship or other research, educational or training programs.
- (e) Cost incurred or expenditures made by the contractor, as directed, approved or ratified by the Contracting Officer and not allowable under any other provisions of this contract.

### ITEMS OF UNALLOWABLE COSTS:

- (a) Premium Pay for wearing radiation-measuring devices for Laboratory and all-tier cost-type subcontract employees.
- (b) Costs incurred in connection with any employee action as provided in the clause H.12 entitled "Costs Associated with Whistleblower Actions."

### CLAUSE H.11 - RESERVED

### CLAUSE H.12 - COSTS ASSOCIATED WITH WHISTLEBLOWER ACTIONS

- (a) Definitions.
  - (1) "Adverse determination" means
    - (i) A recommended decision under 29 CFR part 24 by an administrative law judge that the Contractor has violated the employee protection

## Section H

provisions of the statutes for which the Secretary of Labor has been assigned responsibility;

- (ii) An initial agency decision under 10 CFR 708.10, that the Contractor has engaged in conduct prohibited by 10 CFR 708.5; or
  - (iii) A decision against the Contractor by the Secretary under 41 U.S.C. 265(c)(1)
  - (iv) A judgment or other determination of liability against the Contractor and in favor of the employee in an action in a judicial forum.
- (2) "Costs" include any costs or expenses relating to an employee action, as defined below, including but not limited to back pay, damages or other award in the form of relief to the employee; administrative and clerical expenses; the cost of legal services, including litigation costs, whether provided by the Contractor or procured from outside sources; the costs of services of accountants, consultants or other experts retained by the Contractor; all elements of related compensation, costs and expenses of employees, officers and directors; and any similar costs incurred after the commencement of the employee action.
- (3) "Employee action" means an action brought by an employee of the Contractor under 29 CFR part 24, 10 CFR part 708, or 41 U.S.C. 265, or an action filed in federal or state court for redress of discrimination or discriminatory action by a Contractor based on activities that would be actionable under 29 CFR part 24, 10 CFR part 708, or 41 U.S.C. 265.
- (4) "Litigation costs" include attorney, consultant and expert witness fees associated with the defense of an employee action, but exclude the costs of implementing a settlement, judgment, or Secretarial Order.
- (b) Segregation of costs. All litigation costs incurred in the investigation and defense of an employee action under this clause shall be differentiated and accounted for by the Contractor so as to be separately identifiable. If the Contracting Officer provisionally disallows such costs, then the Contractor may not use funds advanced by DOE under the contract to finance the litigation.
- (c) Allowability of litigation and other costs.
- (1) Litigation costs, including the use of alternative dispute resolution, and settlement costs incurred in connection with an employee action under this clause are allowable if the employee action is resolved prior to an adverse determination, provided such costs are otherwise allowable under the clauses entitled "Insurance-Litigation and Claims," "Cost Prohibitions Related to Legal and Other Proceeding," and other relevant provisions of this contract.

## Section H

- (2) In actions in which an adverse determination is issued, litigation, settlement, and judgment costs, as well as the cost of complying with any Secretarial Order, are not allowable, unless:
    - (i) The Contractor prevails in a proceeding subsequent to the adverse determination at which a final decision is rendered in the action; or
    - (ii) The Contracting Officer has, on the basis that it is in the best interest of the Government, approved the Contractor's request to proceed with defense of an action rather than entering into a settlement with the employee or accepting an adverse determination or other interim decision prior to a final decision.
  - (3) Subsequent to an adverse determination, litigation costs, as well as costs associated with any interim relief granted, may not be paid from contract funds; provided, however, that the Contracting Officer may, in appropriate circumstances, provide for conditional payment from contract funds upon provision of adequate security, or other adequate assurance, and agreements by the Contractor to repay all litigation costs, plus interest, if they are subsequently determined to be unallowable.
  - (4) Litigation costs incurred to defend an appeal by the employee from an interim or final decision in the Contractor's favor are allowable provided they are otherwise allowable under the clauses entitled "Insurance Litigation and Claims" and "Cost Prohibitions Related to Legal and Other Proceedings," and other relevant provisions of the contract.
- (d) The provisions of this clause shall not apply to the defense of suits by employees or ex-employees of the Contractor under section 2 of the Major Fraud Act of 1988 as amended. (See the clause entitled "Cost Prohibitions Related to Legal and Other Proceedings.")

### CLAUSE H.13 - LIABILITY WITH RESPECT TO COST ACCOUNTING STANDARDS

- (a) The Contractor is not liable to the Government for increased costs or interest resulting from its failure to comply with the Clauses of this contract entitled, "Cost Accounting Standards", and "Administration of Cost Accounting Standards", if its failure to comply with the clauses is caused by the Contractor's compliance with published DOE financial management policies and procedures or other requirements established by the Department's Chief Financial Officer or Procurement Executive.
- (b) The Contractor is not liable to the Government for increased costs or interest resulting from its subcontractors' failure to comply with the clauses at FAR 52.230-2, "Cost Accounting Standards," and FAR 52.230-6, "Administration of Cost Accounting Standards," if the Contractor includes in each covered subcontract a clause making the

## Section H

subcontractor liable to the Government for increased costs or interest resulting from the subcontractor's failure to comply with the clauses; and the Contractor seeks the subcontract price adjustment and cooperates with the Government in the Government's attempts to recover from the subcontractor.

### CLAUSE H.14 - PROCEDURE TO DISALLOW COSTS

- (a) General. The Parties agree that this contract is a Government advanced funded cost-type contract. If either party believes that funds have been used to pay for costs which are unallowable under this contract, the following procedure will be invoked.
- (b) The party which initially identifies a cost of questionable allowability will inform the other party of the issue. The Contractor and the Contracting Officer shall make every reasonable effort to reach a satisfactory settlement. If the Parties are unable to reach a settlement, the Contracting Officer will issue a written notice in accordance with clause I.47, Notice of Intent to Disallow Costs.
- (c) If the Contracting Officer issues a written decision pursuant to clause I.47 (a)(2), this decision will be considered a final decision for the purposes of clause I.44, Disputes. Within thirty (30) days after receipt of this decision, the Contractor will make payment of the amount set forth in the decision. Payment shall be made by check or other appropriate mechanism as approved by the Contracting Officer. Payment by the Contractor shall not waive or otherwise preclude its right to appeal or file suit pursuant to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

### CLAUSE H.15 - FINANCIAL MANAGEMENT SYSTEM

The Contractor shall maintain and administer a financial management system that is suitable to provide proper accounting in accordance with DOE requirements for assets, liabilities, collections accruing to the Contractor in connection with the work under this contract, expenditures, costs, and encumbrances; permits the preparation of accounts and accurate, reliable financial and statistical reports; and assures that accountability for the assets can be maintained. The Contractor shall submit to DOE for written approval a plan for new financial management systems and/or subsystems and major enhancements and/or upgrades to the currently existing financial systems and/or subsystems. The Contractor shall notify DOE thirty (30) days in advance of any planned implementation of any substantial deviation from this plan and, as requested by the Contracting Officer, shall submit any such deviation to DOE for written approval before implementation.

### CLAUSE H.16 – COST MANAGEMENT REPORTS

So long as SURA remains a non-integrated contractor, SURA's financial management system shall be linked to DOE's accounts through the use of the U. S. Department of Energy Cost Management Report (DOE form 533M) which shall be provided to the Contracting Officer on a monthly basis and fiscal year basis in accordance with the requirements imposed by the Contracting Officer pursuant to Clause 110, *Laws, Regulations, and DOE Directives*.

**CLAUSE H.17 - PRIVACY ACT RECORDS**

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a (Public Law 93-579) and implementing DOE Regulations (10 CFR 1008 Chapter III, Part 708), the Contractor shall maintain the following "Systems of Records" on individuals in order to accomplish the United States Department of Energy functions:

- (a) "Personnel Records of Former Contractor Employees" (DOE-5)
- (b) "Personnel Medical Records" (DOE-33).
- (c) "Personnel Radiation Exposure Records" (DOE-35).
- (d) "Occupational & Industrial Accident Records" (DOE-38)
- (e) "Labor Standards Complaints and Grievances" (DOE-39)
- (f) "Contractor Employee Insurance Claims" (DOE-40)

The parenthetical Department of Energy number designations for each system of records refers to the official "System of Records" number published by the United States Department of Energy in the Federal Register pursuant to the Privacy Act.

**CLAUSE H.18 - PATENT INDEMNITY SUBCONTRACTS**

Except as otherwise authorized by the Contracting Officer, the Contractor shall obtain indemnification of the Government and its officers, agents, and employees against liability, including costs, for infringement of U.S. Letters Patent (except Letters Patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) from Contractor's subcontractors for any contract work subcontracted on the terms and in accordance with the Federal Acquisition Regulations as may be supplemented by the Department of Energy Acquisition Regulations.

**CLAUSE H.19 - AUTHORIZATION AND CONSENT IN COPYRIGHT**

In the case of suit or potential suit in copyrighted infringement, the Contractor may request authorization and consent in copyright from DOE. Programmatic necessity shall be a major consideration in grant of authorization and consent.

CLAUSE H.20 - ROYALTY INFORMATION DURING TERM OF CONTRACT

(a) Cost of charges for royalties.

If any royalty payments are directly involved in the contract or will be charged to the Government as costs under the contract, the Contractor agrees to report to the Contracting Officer the following information relating to each separate item of royalty or license fee:

- (1) Name and address of licensor.
- (2) Date of license agreement.
- (3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable.
- (4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable.
- (5) Percentage or dollar rate of royalty per unit.
- (6) Unit price of contract item.
- (7) Number of units.
- (8) Total dollar amount of royalties.

(b) Copies of current licenses. In addition, if specifically requested by the Contracting Officer, the Contractor shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents or other basis upon which the royalty is payable.

(c) The Contractor shall follow the procedures of 48 CFR 27.204 and 48 CFR 927.206 in all subcontracting.

CLAUSE H.21 – RESERVED

CLAUSE H.22 – RESERVED

CLAUSE H.23 - OTHER PATENT RELATED MATTERS [THIS CLAUSE APPLIES TO PRIVATELY FUNDED TECHNOLOGY AS DEFINED IN CLAUSE I.96 - TECHNOLOGY TRANSFER MISSION (b)(9)]

(a) Transfer of Patent Rights to a Successor Contractor.

At the termination or expiration of this contract, the following terms and conditions shall apply to subject inventions which were elected and prosecuted under privately funded technology transfer, licenses and royalties generated therefrom:

- (1) For any license executed prior to termination or expiration of this contract for a subject invention, the distribution of net royalties or income therefrom shall remain as prior to contract termination or expiration and shall continue for the duration of such license. The percentage of such royalties or income being used at the Facility shall go to the successor Contractor at the Facility for use at the Facility pursuant to its contract or, in the absence of a successor Contractor, to such other entity designated by the Government.
- (2) For any assignment executed to a party other than an affiliate of the Contractor prior to termination or expiration of this contract for a subject invention, the distribution of net royalties or income therefrom shall remain as prior to contract termination or expiration and shall continue for the duration of such assignment. The percentage of such royalties or income being used at the Facility shall go to the successor Contractor at the Facility for use at the Facility pursuant to its contract or, in the absence of a successor Contractor, to such other entity designated by the Government.
- (3) Where title to a subject invention has been retained by the Contractor or an affiliate of the Contractor, the Contractor and Government shall enter negotiations prior to such termination or expiration with respect to retention of title to the invention by the Contractor or its affiliate or transfer of such title to DOE or the successor Contractor operator of the Facility. Such negotiations shall consider the equities of the Parties with respect to each subject invention and shall take into consideration the presence of private investment, potential commercial use, assumption of patent related liabilities, effective technology transfer and the need to market the technology. Regardless of whether such negotiations are completed, the Government shall have the right to require the transfer of any such title to any subject invention to which title has been retained by the Contractor or an affiliate and the Parties shall thereafter complete negotiations regarding appropriate compensation.
- (4) Where title to a subject invention is to be retained by the Contractor or its affiliate subsequent to termination or expiration of the contract, the Contractor and the Government shall enter negotiations prior to such termination or expiration with respect to net royalties or income generated from assignments

## Section H

or licenses of such inventions effected subsequent to termination or expiration of the contract and the distribution thereof between the Contractor and successor Contractor at the Facility for use at the Facility pursuant to its contract, or, in the absence of a successor Contractor, to such other entity designated by the Government. Such negotiations shall consider the equities of the Parties and other conditions as set forth in paragraph (3) above. However, the net royalty or income distribution to the Facility for use by a successor Contractor or other Government designated entity shall in no event be less than twenty-five percent (25%) of such net royalties or income.

### (b) Costs

- (1) Except as otherwise specified in clause I.96 -Technology Transfer Mission - Alternate I, as allowable costs for conducting activities pursuant to the provisions of that Article, no costs are allowable as direct or indirect costs for the preparation, filing or prosecution of patent applications or the payment of maintenance fees or licensing and marketing costs, including costs relating to litigation or other adverse claims, where the Contractor elects to retain title.
- (2) To the extent that the Contractor utilizes private Contractor funds for invention costs set forth in the clause H.21 - P.L. 98-620 Patent Rights (Special), paragraph (k)(3), the annualized net royalties or income being returned to the Facility for use at the Facility, resulting from licensing inventions for which all invention costs were covered by private Contractor funds, being returned to the Facility for use at the Facility shall in no event be less than fifty-one percent (51%) of the balance of royalties or income earned.

### (c) Liability of the Government.

In situations involving privately funded technology transfer activities, the Contractor shall include in all license agreements and in any assignment the following clause unless otherwise approved or directed by the Contracting Officer following consultation with DOE Patent Counsel:

"This license (assignment) is entered into by the Licensor, independent from its prime contract with the Department of Energy. The Licensor is acting independently from the Government and in its own private capacity and is not acting on behalf of the U.S. Government, nor as its Contractor nor its agent. Correspondingly, it is understood and agreed that the U.S. Government is not a party to this license and in no manner whatsoever shall be liable for nor assume any responsibility or obligation for any claim, cost or damage arising out of or resulting from this license agreement, the subject matter licensed, or any action or lack thereof by the Licensor or Licensee with respect thereto."

## Section H

Further, the Contractor shall not include in any license agreement or assignment any guarantee or requirement which would obligate the Government to pay any costs or create any liability on behalf of the Government.

### CLAUSE H.24 - INTER-CONTRACTOR PURCHASES

Inter-Contractor purchases, as defined in Acquisition Letter 98-03, paragraph III, shall conform to the principles contained in paragraphs IV.A.1-3, and 5 of Acquisition Letter 98-03.

### CLAUSE H.25 - DEAR 970.2210 SERVICE CONTRACT ACT OF 1965 (41 U.S.C. 351)

The Service Contract Act of 1965 is not applicable to this contract. However, subcontracts awarded by the Contractor are subject to the Act to the same extent and under the same conditions as contracts awarded by DOE. Accordingly, except as otherwise approved, in writing, by the Contracting Officer, the Contractor will insert the appropriate "Service Contract Act" article and applicable wage determinations in subcontracts the principal purpose of which is to furnish services through the use of service employees. The Contractor and the Contracting Officer shall develop a procedure whereby DOE will determine if the Service Contract Act is applicable to particular subcontracts.

### CLAUSE H.26 - DEAR 970.2206 WALSH-HEALY PUBLIC CONTRACTS ACT

Except as otherwise may be approved, in writing, by the Contracting Officer, the Contractor agrees to insert the following provision in Purchase Orders and subcontracts under this contract. "If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed \$10,000.00 and is otherwise subject to the Walsh-Healy Public Contracts Act, as amended (41 U.S. Code 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect."

### CLAUSE H.27 - INCORPORATION OF REVISED FAR AND DEAR CLAUSES AND DEPARTMENTAL POLICIES AND PROCEDURES

The Parties acknowledge that DOE continues to review DOE policies and procedures applicable to contracts for management and operation of Government-owned facilities. This review may result in further additions, deletions or revisions to existing contract clauses, or

other DOE regulations, or directives which are issued after the effective date of this Modification, and which could conflict with or supersede some aspects of this Modification. It is the intent of the Parties to modify this contract, as necessary, to incorporate these new or revised clauses, regulations, or directives.

**CLAUSE H.28 - CONTRACTOR'S RIGHT TO TERMINATE**

(a) The Contractor shall have a right to terminate this contract when the contractor's liability, defined as the cost the contractor actually incurs as a result of certain obligations it has assumed under the contract, exceeds fifty percent of the total of the fixed SURA Central Office expenses (defined in Clause H.29) and the fixed fee (defined in Clause I.78(b)) paid to the contractor each fiscal year. Solely for purposes of this provision, the contractor's liability shall only apply to the obligations the contractor has assumed pursuant to:

- Clause H.12;
- Clause I.78(e)(12);
- Clause I.84 (f)
- Clause I.91 (h)(3);
- Clause I.91 (j)(2), except for punitive damages resulting from the willful misconduct, or lack of good faith of the Contractor's managerial personnel as defined in Clause H.1 (d);
- Clause I.106;

and shall apply on a cumulative, per fiscal year basis.

(b) Termination of the contract shall be effected by delivery of written notice of termination, which shall specify a period of twenty-four (24) months for termination to take place.

The contractor shall continue to perform the work as required by the terms of this contract during the twenty-four (24) month period.

(c) If the Contractor terminates this contract, the provisions of Clause I.100, "Termination" regarding a termination settlement, shall be at the expense of the Contractor.

**CLAUSE H.29 – SURA CENTRAL OFFICE EXPENSES**

The allowable costs reimbursed under Clause I.78 "Allowable Cost and Fixed Fee" of this contract shall include cost incurred by the SURA Central Office and shall be determined as follows:

Reimbursement of SURA's Central Office Expenses shall be based upon the principles contained in OMB Circular A-122. SURA shall prepare and submit a

detailed cost proposal for the Department of Energy's Contracting Officer review. SURA will certify that the cost proposal contains no unallowable costs. The proposal will be submitted no later than 60 days prior to the beginning of each year of the contract and will identify the estimated allocable portion of SURA's Central Office Expenses. After review of the detailed proposal, the Parties shall negotiate a pre-determined fixed amount for that year's Central Office Expenses. Within 120 days after the end of each year of the contract, SURA shall submit for review a report identifying the actual allowable incurred costs to the Department of Energy in such form and detail as required by the Contracting Officer. Any difference between the pre-determined amount and the actual costs will be used to adjust the next year's or in the case of the last year of the contract, the final year's pre-determined amount. SURA's allowable costs for Central Office Expenses shall be paid to the Contractor in equal monthly installments, at the end of each month. The pre-determined fixed amount will be subject to appropriate adjustment if the Contract is terminated pursuant to Clause I.100 "Termination."

2. A schedule of the negotiated central office expenses is as follows:

<u>Fiscal Year</u>	<u>Central Office Expenses</u>
11/01/1999 - 9/30/2000	\$1,515,834
10/01/2000 - 9/30/2001	TBD
10/01/2001 - 9/30/2002	TBD
10/01/2002 - 9/30/2003	TBD
10/01/2003 - 9/30/2004	TBD

**CLAUSE H.30 - ENVIRONMENTAL CERTIFICATIONS**

In connection with environmental permit applications and other environmental documentation required to be submitted by DOE to local jurisdictions, agencies of the Commonwealth of Virginia, or the United States Environmental Protection Agency with respect to Jefferson Lab, a DOE official is often required by law and/or regulation to certify that the information set forth in a particular document is accurate and complete, and that specific protocols or standards were followed. However, the parties recognize that the information contained in such documents is generated for DOE by SURA, either directly or through subcontractors. Therefore, to assist the DOE official in making such certification, an appropriate SURA official shall confirm to DOE that in regard to documents prepared by SURA, the information contained in the particular document is accurate and complete and that any protocols required by the respective regulatory agencies have been observed. In regard to documents prepared by subcontractors or others, SURA shall confirm that an appropriate SURA official has reviewed the document for accuracy and completeness and for the subcontractor's certification that protocols required by regulatory agencies have been observed.

CLAUSE H.31 - PERFORMANCE MEASURE REVIEW

- (a) The Contractor and DOE agree to annually review the performance measures contained in Part III, Attachment J.2, Appendix B and to modify them upon the agreement of the parties; Provided, however, that if the parties cannot reach agreement on all the performance measures for the next period, the Contracting Officer shall have the unilateral right to establish new performance measures and/or to modify and/or delete existing performance measures, subject to the provisions of paragraph (b) below. It is expected that the performance measures will be modified by the Contractor and the DOE as new areas of emphasis of priorities emerge which the parties may agree warrant recognition in the performance based management system.
- (b) In the event the Contracting Officer decides to exercise the unilateral right set forth in paragraph (a) above, he/she will notify the Contractor in writing of the intended decision and that a revision to Part III, Section J.2, Appendix B containing the revised performance measures will be issued to the Contractor within ten (10) working days. Provided, however, that the parties agree that the following resolution procedure will be available to the Contractor.
- (1) Within five (5) working days of receipt of the notification that revised performance measures are to be imposed, a Corporate Officer of the Contractor may request that a Resolution Counsel (RC), consisting of a Corporate Officer of the Contractor, the Laboratory Director, the DOE Site Manager, and a representative of the Manager, Oak Ridge Operations Office, consider the Contractor's objections to those performance measures which are to be unilaterally imposed by the Contracting Officer. Said objections must be predicated on one of the following bases: (i) an insufficient specification of standards against which the Contractor's performance can be measured; or (ii) a standard of performance which (A) the Contractor cannot reasonably meet, including consideration of funding made available by DOE; (B) adversely affects the quality of the science or other elements of the mission; or (C) exposes the Contractor to unacceptable legal risks; or (D) conflicts with another performance measure. The RC shall have flexibility in determining the processes and procedures to be utilized and will take all steps necessary to act within twenty (20) working days, or such later period as the Manager of the Oak Ridge Operations Office or his designee, may authorize in writing, to effect informal resolution. The RC may utilize the expertise of knowledgeable staff personnel or other individuals whose participation will assist in the resolution of relevant issues.
- (2) If the RC is unable to resolve the matter within the time frame established in subparagraph (b)(1), the Manager of the Oak Ridge Operations Office or his designee, shall, after joint consultation with the President of SURA and the Director of the Office of Science or their designees, issue a final determination set forth in a Decision Memorandum which shall constitute the final decision in the matter.

## Section H

- (c) Neither the decision of the Contracting Officer to exercise the unilateral right set forth in paragraph (a) above nor any decision of the Manager or his designee under paragraph (b) above, shall constitute a "claim" as defined in Clause I.44 Disputes, of this contract or the Contract Disputes Act of 1978, 41 U.S.C. §601 et seq.

### CLAUSE H.32 - USE OF OBJECTIVE STANDARDS OF PERFORMANCE, SELF-ASSESSMENT AND PERFORMANCE EVALUATION

- (a) The Contractor and DOE agree that the Contractor will utilize a performance based management system for Laboratory oversight. The performance based management system will include the use of clear and reasonable objective performance measures agreed to in advance as standards against which the Contractor's overall performance of scientific, technical, operational, administrative and/or managerial obligations under this contract will be assessed.
- (b) The parties agree that the Contractor will conduct an on-going self-assessment process, including self-assessments performed at the Laboratory, as the principal means by which the Contractor will evaluate its compliance with the performance measures which are contained in Part III, Attachment J.2, Appendix B against which the Contractor's overall performance of obligations under the contract will be determined.
- (c) Further, the Contractor and the DOE agree that the parties will utilize a specially designated process described in Part III, Attachment J.2, Appendix B, to evaluate the performance of the Laboratory. The DOE and the Contractor further agree that the evaluation process, described in Part III, Attachment J.2, Appendix B will be reviewed annually and modified, if necessary, by agreement of the parties.
- (d) DOE, as a part of its responsibility for oversight, evaluation and information exchange, is responsible for providing programmatic and other appraisals and reviews of the Laboratory's and the Contractor's performance of authorized work in accordance with the terms and conditions of this contract.
- (e) Annually, the Contracting Officer shall provide a written assessment of the Contractor's and Laboratory's performance hereunder to the Contractor which shall be based upon the DOE appraisal program and the Contracting Officer's evaluation of the Contractor's self-assessment. The Contracting Officer may also consider significant incidents or events that are within the control of the Contractor. For purposes of this clause, a significant event is one such as, but not limited to: (i) a major incident that exposes workers or the public to a hazard which exceeds regulatory limits or results from a regulatory violation; or (ii) worker or visitor fatality(ies). If any of these or other significant incidents or events occur, the Contracting Officer shall have a unilateral right to determine that the Contractor's overall performance, where appropriate, to be

## Section H

unacceptable and accordingly, may override the existing evaluation process as set forth in Part III, Attachment J.2, Appendix B for the evaluation period.

- (f) In the event the Contracting Officer decides to exercise the unilateral right set forth in paragraph (e) above, he/she will notify the Contractor in writing of his/her intended decision and that the Contracting Officer's Written Assessment will be issued to the Contractor within ten (10) working days. Provided, however, that the parties agree that the following resolution procedure will be available to the Contractor.
- (1) Within five (5) working days of receipt of the notification that the Contracting Officer intends to override the Performance Evaluation Plan, a Corporate Officer of the Contractor may request that a Resolution Council (RC), consisting of a Corporate Officer of the Contractor, the Laboratory Director, the DOE Site Manager, and a representative of the Manager, Oak Ridge Operations Office, consider the Contractor's objections. The RC shall have flexibility in determining the processes and procedures to be utilized and will take all steps necessary to act within twenty (20) working days, or such later period as the Manager of the Oak Ridge Operations Office or his designee, may authorize in writing, to effect informal resolution. The RC may utilize the expertise of knowledgeable staff personnel or other individuals whose participation will assist in the resolution of relevant issues.
  - (2) If the RC is unable to resolve the matter within the time frame established in subparagraph (f)(1), the Manager of the Oak Ridge Operations Office or his designee, shall, after joint consultation with the President of SURA and the Director of the Office of Science or their designees, issue a final determination set forth in a Decision Memorandum which shall constitute the final decision in the matter.
  - (g) Neither the decision of the Contracting Officer to exercise the unilateral right set forth in paragraph (e) above nor any decision of the Manager or his designee under paragraph (f) above, shall constitute a "claim" as defined in Clause I.44, Disputes, of this contract or the Contract Disputes Act of 1978, 41 U.S.C. §601 et seq.

### CLAUSE H.33 - CAP ON LIABILITY

- (a) The parties have agreed that the Contractor's liability, for certain obligations it has assumed under this contract, shall be limited as set forth in paragraph (b) below. These limitations or caps shall only apply to obligations the Contractor has assumed pursuant to:
- Clause I.91 (h)(3)

## Section H

- Clause I.91 (j)(2), except for punitive damages resulting from the willful misconduct, or lack of good faith of the Contractor's managerial personnel as defined in Clause H.1 (d)
- Clause H.12; and,
- Clause I.84 (f)(1)(i)(C)

and shall apply on a cumulative, per fiscal year basis. In addition, the Contracting Officer will determine which annual cap will apply based on the year in which the Contractor's act or failure to act was the proximate cause of the liability assumed by the Contractor pursuant to the provisions of the Clauses enumerated above. Provided, further, that in the event the Contractor's act or failure to act overlaps more than one year, then the individual caps for the years in question will be treated as a single cumulative cap. Finally, the cap set forth in paragraph (b) below shall only apply if the Contractor establishes that willful misconduct or lack of good faith on the part of its managerial personnel as defined in Clause H.1 (d) was not a contributing factor with regard to liabilities it has incurred under Clause I.91 (h)(3), Clause I.91 (j)(2) and Clause H.12.

- (b) The liability cap for fiscal years 2000, 2001, 2002 and 2003 shall be set at fifty percent of the total of the fixed SURA Central Office expenses (defined in Clause H.29) and the fixed fee (defined in Clause I.78(b)) paid to the contractor each fiscal year. The liability cap for fiscal year 2004 will remain at the agreed to fiscal year 2003 amount. Except as otherwise provided in paragraph (a) above, and notwithstanding any other provision of this contract to the contrary, if the liability cap is reached for any fiscal year, the Contractor shall have no further responsibility for the costs of the liabilities it has assumed pursuant to:

- Clause I.91 (h)(3)
- Clause I.91 (j)(2), except for punitive damages resulting from the willful misconduct, or lack of good faith of the Contractor's managerial personnel as defined in Clause H.1 (d)
- Clause H.12; and,
- Clause I.84 (f)(1)(i)(C)

and all costs in excess of the liability cap for said liabilities shall be borne by the Government.

- (c) The liability cap shall remain at the same rate as for the previous period until the next year's Central Office expenses has been established in accordance with Clause H.29.

### CLAUSE H.34 - EXTERNAL REGULATION

The Parties commit to full cooperation with regard to complying with any statutory mandate regarding external regulation of Laboratory facilities, whether by the Nuclear Regulatory

Commission, the Occupational Safety and Health Administration, and/or State and local entities with regulatory oversight authority, and including but not limited to the conduct of pilot programs simulating external regulation, and the application for materials, facilities, or other licenses by or on behalf of the DOE.

CLAUSE H.35 - CONTRACTOR CONTRIBUTIONS

- (a) A sublease agreement separate from this contract has been executed between DOE and SURA, covering the Virginia Associated Research Campus (VARC) building and the property adjacent thereto.
- (b) The City of Newport News, Virginia has donated to SURA approximately 44.6 acres of land which SURA in turn conveyed to DOE in fee simple at no cost to the Government. The City also donated approximately 51.5 acres of land adjacent to the Government-owned site. SURA has, in turn, donated to DOE approximately 7.9 acres of land in fee simple free of charge.
- (c) The Commonwealth of Virginia has appropriated funds for employees and certain other funds to SURA for Jefferson Lab. The Commonwealth of Virginia employees have been and will continue to be under SURA's supervision; however, the salaries and benefits of the said employees are not reimbursable under this contract, except for overtime and any proportionate fringe benefits associated with overtime paid to such employees by the Commonwealth of Virginia. Any such overtime for which SURA reimburses the Commonwealth of Virginia shall be properly authorized by SURA and the amount thereof shall be in accordance with established Commonwealth of Virginia compensation policies. SURA shall continue to utilize funds contributed by the Commonwealth for the benefit of SURA and consistent with the requirements of the Commonwealth.
- (d) The Commonwealth of Virginia has also authorized SURA to expend a stated amount from the General Fund of the Commonwealth of Virginia as the Commonwealth's share in the development of certain technology transfer initiatives at Jefferson Lab. Expenditures of these and similar funds shall be made by SURA in accordance with an Accounting and Procurement Policies and Procedures document approved by SURA management, and the use of DOE rules and regulations which are designated for the expenditure of contract funds shall not be applicable to funds provided by the Commonwealth. SURA further agrees to: (1) Keep the Manager of the DOE Site Office advised of all key technical and management decisions of any project funded with Commonwealth of Virginia funds; and, (2) Hold the Department of Energy harmless for any cost associated with any agreement or subcontract solicitation, award or dispute when SURA intends to use Commonwealth of Virginia funds for any portion of the subject agreement or subcontract. "
- (e) The contributions to SURA by the Commonwealth of Virginia in the form of personnel and funds are not accountable to the Government. However, SURA shall provide an

annual report to the Contracting Officer on the amount of funds appropriated by the Commonwealth and the general purpose for which such funds were used.

CLAUSE H.36 - ADVANCE UNDERSTANDING ON COSTS

- (a) In paragraph (c) of Clause H.35, CONTRACTOR CONTRIBUTIONS it is recognized that the Commonwealth of Virginia may appropriate funds and assign personnel to the Contractor for Jefferson Lab. To the extent allowable under the terms of other provisions of this contract, the cost of supplies and services (office supplies and equipment, utilities, etc.) necessary for those employees of the Commonwealth to perform their duties is an allowable cost as long as their duties are consistent with the Commonwealth's intended contribution to the Contractor and their services are in support of the general purpose of this contract. To the extent allowable by other terms of this contract, the Contractor's costs in administering these funds and supervising these employees are allowable as long as the Contractor's efforts are consistent with the Commonwealth's intended Contractor contribution and the efforts are of benefit to Jefferson Lab.
- (b) (1) The SURA/Jefferson Lab Residence Facility is maintained to provide reasonably priced and convenient temporary housing for researchers and graduate students while involved with research activities at Jefferson Lab, other individuals conducting Jefferson Lab related business with SURA or DOE, and family members of such individuals on a temporary basis while the individual is at Jefferson Lab. While SURA is the owner and operator of the Residence Facility, DOE/Jefferson Lab derives certain benefits from the Residence Facility; accordingly, some indirect DOE funded support to the Residence Facility is appropriate. This DOE funded support provided through the contract is incidental to the overall contract work. The paragraphs below address this support and distinguish between the DOE funded support provided under the contract and the SURA support which is provided apart from this contract.
- (2) The DOE funded support shall be of an indirect nature and is defined as support through the use of existing DOE funded resources-- man-power, facilities, equipment. The DOE funded indirect support shall be from existing resources, and it shall not require the acquisition of additional resources (except as specifically set forth below).

Support from DOE is secondary and shall not interfere with other aspects of SURA's activities at Jefferson Lab. SURA's direct support is primary to the Residence Facility. Listed below are examples of the functions that are included in this indirect support from DOE resources and the direct support from SURA resources. While this list addresses the primary support roles, it is not an exhaustive list; but, it represents the type of expenses that are allowable.

## Section H

Resolution of conflicting interpretations related to this list are addressed in paragraph (4) below.

- (i) Personnel: Indirect support from DOE resources shall include recruitment, screening, selection, recordkeeping, compensation and benefits administration, performance appraisals, corrective actions, employee concerns and grievances, employee assistance, training, affirmative action, and equal employment opportunity compliance. Direct support from SURA resources for employees of the Residence Facility shall include the cost of salaries and benefits, costs associated with training not available from existing training programs at Jefferson Lab, and travel expenses. SURA employees in direct support of the Residence Facility are not considered SURA employees under the scope of this contract.
- (ii) Finance: Indirect support from DOE funded resources shall include the use of existing financial systems, including systems for the payment of salaries and benefits of Residence Facility employees and the payment of SURA purchase orders with non-DOE funds; recordkeeping systems; and Automatic Data Processing (ADP) systems.
- (iii) Procurement: Indirect support from DOE funded resources shall include the use of the SURA procurement system including the purchase of materials and supplies with non-DOE funds and the administration of those purchase agreements through delivery.
- (iv) Security: Indirect support from DOE shall include routine surveillance of the Residence Facility with subcontract security personnel to respond to security related issues. SURA direct support includes any additional security personnel necessary for the Residence Facility.
- (v) ADP Equipment: Indirect support from DOE shall include the use of ADP equipment by graduate students, post- doctoral research assistants, and visiting researchers to monitor experiments which are ongoing at Jefferson Lab while the visitors are at the Residence Facility. The acquisition of additional ADP equipment with DOE funds for this purpose is allowable, if acquired in accordance with established DOE procurement and ADP management requirements. SURA shall maintain and protect all Government property in accordance with Clause I.84, Property.
- (vi) Utilities:

Section H

- (a) Telecommunications: Indirect support from DOE funded resources shall include the use of the central system (trunk line). SURA shall reimburse to DOE the billed costs from the utility supplier of providing service to the Residence Facility, including proportional local service and actual long distance service.
- (b) Water and Sewer: SURA shall reimburse DOE for metered water charges and proportional sewer charges.
- (c) Electricity: SURA shall be directly responsible for electricity charges.
  
- (vii) Environment, Health, and Safety: Indirect support from DOE funded resources shall include assistance with the preparation of environmental permits. SURA shall bear the cost of any direct expense for such permits or health and safety related equipment.
- (viii) Miscellaneous: In addition to the above, there are a variety of functions that are of a less substantive nature. Examples of these are site development planning as related to the DOE/Jefferson Lab site; emergency maintenance and repair of the Residence Facility with reimbursement from SURA to DOE of any direct costs of repairs, e.g., overtime, repair parts; emergency medical care through the Medical Services Department; making of travel arrangements for guests at Jefferson Lab; and food services provided from the cafeteria contractor that do not negatively impact the overall operating cost of the cafeteria. SURA shall bear the expense of any remodeling, modifications, or routine maintenance to the Residence Facility.
  
- (3) SURA personnel working under the contract, whose salary is paid with DOE funds, may be used in the day-to-day supervision of the SURA employees (non-DOE funded) operating the Residence Facility. This supervision shall be minimal in relation to their other responsibilities under this contract, shall not impact their other responsibilities related to the activities at Jefferson Lab, and shall not require additional DOE funded personnel.
- (4) Any item of cost or support related to the Residence Facility (1) which is not addressed above either specifically or generally within the intent of this provision, (2) which is in question as to the reasonableness of the item, and/or (3) which requires a determination as to its allowability under this paragraph (b) of Clause H.36 only is final and is not subject to Clause I.44, Disputes.
- (5) SURA agrees to maintain at least \$10,000,000 of general liability insurance and property insurance at the replacement value of the facility at its own expense on

## Section H

the Residence Facility, to name DOE as an insured under the insurance policies, and to provide evidence of such insurance to DOE on request.

### CLAUSE H.37 - ENVIRONMENTAL PROTECTION, SAFETY AND HEALTH – WORK SMART STANDARDS

(a) The Contractor shall:

- (1) Satisfy the applicable DOE Directives and DOE requirements which are summarized in Part III, Section J.5, Appendix E/List B to this contract and/or adopted employing the process specified in Clause I.110, *Laws, Regulations and DOE Directives*, paragraph (b). Where possible, the parties agree to use the same process deployed during the Necessary and Sufficient (later referred to in the Department as "Work Smart Standards) process prior to adding any prospective DOE ES&H Directive to Part III, Section J.5, Appendix E/List B. This process will ensure that the prospective ES&H Directive is not redundant with existing laws and regulations, adds net value and that it can not be replaced by appropriate Performance Measures.
- (2) Comply with the "Necessary Standards" and the applicable portions of the "Sufficient External Standards" that are based on legal/regulatory requirements in the "Set." These standards are in lieu of the hazard based requirements in DOE ES&H directives that are based in regulation which otherwise would be applicable to performance of this contract under Clause I.110 entitled *Laws, Regulations and DOE Directives*. Omission of any applicable law or regulation from the "Set" does not affect the obligation of the contractor to comply with all requirements of law or regulation unless relief has been granted in writing by DOE or the appropriate regulatory agency. Furthermore, the parties agree that:
  - i) The "Necessary Standards" and the "Sufficient External Standards" in the "Set" will be listed in the contractor's ES&H Manual. Implementation of the "Necessary Standards" and the legally mandated "Sufficient External Standards" will be subject to review and audit by the Contracting Officer. However, the Contractor is only required to comply with the "Necessary Standards" and the applicable portions of the "Sufficient External Standards" that are based on legal/regulatory requirements.
  - ii) The Contractor's ES&H Manual used in the implementation of the "Sufficient External Standards" and the "Sufficient Internal Standards" that are not based on legal/regulatory requirements identified in the

## Section H

"Set" will be subject to review and comment by the Contracting Officer concerning the sufficiency of protection.

- iii) Substantive changes to the contractor's EH&S Manual will be subject to review and comment by the Contracting Officer prior to implementation of the change. The Contractor shall give the Contracting Officer as much advanced notice of such a proposed change as practicable, but in no case shall it be less than seven calendar days.
- (3) Comply with the EH&S Administrative Laws and Regulations list from the DOE Directive review process. These standards are in lieu of "non-hazard based" DOE Order requirements in DOE ES&H directives that are based in law and regulation which otherwise would be applicable to performance of this contract under Clause I.110 entitled *Laws, Regulations and DOE Directives*. Omission of any applicable law or regulation from the EH&S Administrative Laws and Regulations list does not affect the obligation of the contractor to comply with all requirements of law or regulation unless relief has been granted in writing by DOE or the appropriate regulatory agency. Furthermore the parties agree that:
- i) The EH&S Administrative Laws and Regulations list will be incorporated into the contractor's EH&S Manual subject to review and audit by the Contracting Officer.
  - ii) The contractor shall notify the Contracting Officer of changes to any standard in the EH&S Administrative Laws and Regulations list as a result of changes to the law and/or regulations.
  - iii) Substantive changes to the Contractor's EH&S Manual will be subject to review and comment by the Contracting Officer prior to implementation of the change. The Contractor shall give the Contracting Officer as much advanced notice of such a proposed change as practicable, but in no case shall it be less than seven calendar days.
- (4) Research ES&H laws, regulations, and other legally mandated standards on an ongoing basis and, for changes therein, adjust contract performance to assure continuing compliance and to address any new hazards.
- (5) Identify and inform the Contracting Officer, in writing, of any inconsistencies among these laws, regulations, directives and standards which would affect or preclude the Contractor's ability to perform its work, and bring such inconsistencies to the attention of the Contracting Officer.
- (6) Continue to maintain adequate management systems that ensure that the DOE Directives and/or requirements specified in Part III, Section J.5, Appendix E/List B and the agreed-upon standards identified in the "Set" and the ES&H

## Section H

Administrative Laws and Regulations list (Appendix E/List A) are implemented in accordance with Clause I.74 entitled *Integration of Environment, Safety, and Health into Work Planning and Execution*. The parties further agree that standards which are not required by law or regulation will be implemented in a graded approach, taking into account risks and costs and that the adequacy of implementation shall be judged by the process outlined in Part III, Section J.2, Appendix B/List B.

- (7) Include appropriate consideration of such laws, regulations, directives and standards in planning activities performed under this contract.
  - (8) Assist DOE in its obligations toward fulfilling their NEPA responsibilities and ensure that all applicable requirements of the National Environmental Policy Act (NEPA) have been met and the required documentation is approved by the Contracting Officer prior to undertaking any applicable action.
- (b) The Parties shall endeavor to keep apprised of changes to standards in the "Set." Subject to paragraphs (a)(4) and (f) of this Article, changes to any standard in the "Set" shall be addressed as follows:
- (1) Subsequent changes to the contractor's EH&S Manual resulting from changes to the Set will be subject to review and comment by the Contracting Officer prior to implementation of the change.
  - (2) If the standard is a requirement applicable by law or regulation, the changed standard shall supersede the standard in the "Set" and become the new standard, effective immediately. The Contractor shall notify the Contracting Officer and the "Set" shall be modified accordingly.
  - (3) If the standard is not required by law or regulation, the Contractor may substitute the changed standard, with notice to the Contracting Officer if the change does not lower the agreed to level of protection.
  - (4) Any changes to the "Set" which decreases the level of ES&H protection agreed to during the Necessary and Sufficient process (or any intervening changes to the Set in accordance with paragraph [b] of this Clause) requires the approval of the Contracting Officer.
  - (5) In accordance with process outlined in Clause I.110 entitled "*Laws, Regulations, and DOE Directives*," the Contracting Officer may revise Part III, Section J, Appendix E/List B and the Contractor agrees to modify the "Set" accordingly for any ES&H Directive.
  - (6) If a standard is not a requirement of a DOE Directive, the Contracting Officer may direct (i) substitution of a changed standard or (ii) modification of an internal standard, unless, within 30 days from receipt of notification of the

## Section H

change from the Contracting Officer, the Contractor submits the matter to the Agreement Parties for a decision. If the Agreement Parties determine that the modified standard is necessary, the Contractor shall substitute the changed standard.

- (c) Participate in a new Necessary and Sufficient Closure process upon a determination by either party that the existing "Set" is no longer complete or appropriate due to major changes in mission, activity, degree of hazard, performance expectation, or knowledge. Approval of any revised "Set" shall be by the Agreement Parties in accordance with the DOE Closure Process for Necessary and Sufficient Standards, with the exception that the external review may be omitted if the proposed changes are limited and non-controversial.
- (d) As addressed in section (a)(3) of this Clause, the EH&S Administrative Laws and Regulations list will be listed in the contractor's EH&S Manual and implemented subject to the review and audit by the Contracting Officer. The Parties shall endeavor to keep apprised of changes to standards in the EH&S Administrative Laws and Regulations list. Subject to paragraphs (a)(4) and (f) of this Clause, changes to any standard in the EH&S Administrative Laws and Regulations list shall be addressed as follows:
  - (1) Subsequent changes to the contractor's EH&S Manual resulting from changes to the EH&S Administrative Laws and Regulations list will be subject to review and comment by the Contracting Officer prior to implementation of the change.
  - (2) If the standard is a requirement applicable by law or regulation, the changed standard shall supersede the standard in the EH&S Administrative Laws and Regulations list and become the new standard, effective immediately. The Contractor shall notify the Contracting Officer and the EH&S Administrative Laws and Regulations list shall be modified accordingly.
- (e) The Contractor and the Contracting Officer shall identify and, if appropriate, agree to, any changes to contract terms and conditions, including cost and schedule, associated with a change to the "Set" or to a standard in the Set or a change to the EH&S Administrative Laws and Regulations list.
- (f) The Contractor may at any time seek an exception, exemption, waiver, or variance from, or propose an equivalent alternative to, all or part of any standard in the "Set" or the EH&S Administrative Laws and Regulations list, and with respect to all or part of the activities under this contract, by submitting a request to the Contracting Officer. The Contracting Officer shall be responsible for taking any necessary and appropriate action to respond to any such request including seeking relief from any standard which is required by law.
- (g) In the event that the Contractor determines it is unable to perform in accordance with the provisions of this clause, the Contractor shall so inform the Contracting Officer in writing and shall propose an action plan to remedy the problem. After receipt of

## Section H

authorization from the Contracting Officer, the Contractor shall, within a reasonable time agreed upon by the parties, take the agreed upon actions and track them until closure. The Contracting Officer shall be notified when closure has been reached.

- (h) The Contractor shall include in all of its subcontracts involving performance of work at the site, provisions requiring subcontractors to comply with the Contractor's Environment, Safety and Health Standards when such standards are mandated by law, regulation or the contract, plus such other requirements as may be necessary for the subcontractor to achieve a level of protection equal to or greater than the contractor's. However, such provisions in the subcontracts shall not relieve the Contractor of its obligation to assure compliance with the provisions of this clause for all aspects of the work.
- (i) If at any time during the performance of the contract work, the Contractor's acts or failure to act may cause substantial harm or an imminent danger to safety and health of the worker or public, or to the environment, or the Contractor fails to take the corrective action approved in accordance with paragraph (f) above, the Contracting Officer may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of the Contracting Officer. The Contractor shall make no claim for an extension of time or adjustment of its fixed fee or damages by reason of, or in connection with, such work stoppage.
- (j) For purposes of this Article, the term 'Agreement Parties' means the President, Southeastern Universities Research Association, Inc.; the Director, Office of High Energy and Nuclear Physics, Office of Science; and the Manager, DOE Site Office or their designees.

### CLAUSE H.38 - PROPERTY PROTECTION FACILITY SECURITY

- (a) Facility Importance Rating. DOE has officially determined Jefferson Lab's "facility importance rating" to be Class "PP" (Property Protection). [Reference DOE Order 470.1]
- (b) Responsibility. It is the Contractor's duty to protect all DOE property and persons on site. The Contractor shall, in accordance with applicable DOE security regulations and requirements, be responsible for protecting Jefferson Lab against sabotage, loss and theft of property in the Contractor's possession in connection with the performance of work under this contract. The Contractor shall also be responsible for implementing DOE requirements as directed by the Contracting Officer and taking other actions that may be determined by DOE and the Contractor to be reasonable and necessary to protect the safety of the site population from terrorism or acts of violence.

- (c) Regulations. The Contractor shall comply with all security regulations and requirements applicable to property protection facilities of DOE and for the administration of security clearances for Contractor personnel.
- (d) Directives. The Contractor shall comply with all applicable DOE Directives specified in Part III, Section J.5 Appendix E/List B to this contract and/or imposed by the Contracting Officer pursuant to Clause I.110 entitled *Laws, Regulations, and DOE Directives*.

**CLAUSE H.39 - CLASSIFIED RESEARCH AND INFORMATION**

- (a) It is the intent of both DOE and the Contractor that Jefferson Lab be a research facility whose primary purpose is to provide a state of the art physics laboratory that is user friendly to the national and international scientific community.
- (b) It is mutually expected that the activities under this contract will not involve classified information. It is understood, however, that if in the opinion of either party, this expectation changes prior to the expiration or termination of all activities under this contract, said party shall notify the other party accordingly in writing without delay. The Contractor shall promptly inform the Contracting Officer in writing if and when classified information becomes involved or is expected to become involved in contract performance. The Contracting Officer shall assure that the Contractor is given appropriate instruction for the handling of the classified information. The Contractor agrees to safeguard the information in accordance with DOE's instruction and will transfer it as soon as practicable to the appropriate Government official.
- (c) The Contractor shall not permit any individual to have access to classified information except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and DOE's requirements.
- (d) Inasmuch, as Jefferson Lab creates a unique research capability for the United States, the possibility of conducting classified research exists. Therefore, the Jefferson Lab research facilities shall be available for classified work performed by the Government or its designee, excluding the Contractor, at its expense and pursuant to special security arrangements to be made by the Government.

**CLAUSE H.40 - NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS - SENSE OF CONGRESS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

CLAUSE H.41 - LOBBYING RESTRICTION (ENERGY & WATER DEVELOPMENT  
APPROPRIATIONS ACT, 1999)

The Contractor or awardee agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.