EXCEPTION TO SF 30, APPROVED BY NARS 5/79

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE | PAGE 1 OF 2

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (*If applicable*)
241	September 20, 2011	NA27344	

6. ISSUED BY CODE	7. ADMINISTERED BY (*If other than Item 6*)
U.S. Department of Energy/NNSA SC M&O Contract Support Division P.O. Box 5400 Albuquerque, NM 87185-5400	U.S. Department of Energy/NNSA Livermore Site Office M/S L-293 7000 East Avenue Livermore, CA 94550

8. NAME AND ADDRESS OF CONTRACTOR (*No., street, country, State, and ZIP Code*)		9A. AMENDMENT OF SOLICITATION NO.
Lawrence Livermore National Security, LLC Lawrence Livermore National Laboratory M/S L-294 7000 East Avenue Livermore, CA 94550		
		9B. DATED (*SEE ITEM 11*)
	X	10A. MODIFICATION OF CONTRACT/ ORDER NO. DE-AC52-07NA27344
		10B. DATED (*SEE ITEM 13*)
CODE / FACILITY CODE		May 8, 2007

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 25, 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 ACKNOWLEDGEMENT 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*)

see attached

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

	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (*Specify authority*) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN CONTRACT/ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (*such as changes in paying office, appropriation data, etc.*) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103 (b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Clause H-19 Modification Authority, Clause I-120 changes, and Mutual Agreement
	D. OTHER (*Specify type of modification and authority*)

E. **IMPORTANT:** Contractor _ is not, _X_ 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.*)

See Attachment

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*)	16A. NAME AND TITLE OF CONTRACTING OFFICER (*Type or print*)
Paul Rosenkoettor, Director, Prime Contract Management	Ronna Promani, Contracting Officer U.S. Department of Energy/NNSA

15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(*Signature of person authorized to sign*)	9/21/11	B (*Signature of Contracting Officer*)	9/21/2011

The following changes are hereby incorporated into the contract:

1. Clause B-2 is changed as follows:

   Paragraph (e) (2) is changed to add the Reimbursable Work Estimated Cost of $320,000,000, the Maximum Available Fee of $8,000,000 and the Total Estimated Cost + Maximum Available Fee of $328,000,000 for the period of 01 Oct 2011 to 30 Sep 2012.

2. Clause B-9999 is changed as follows:

   Incorporate work authorizations *GT-100038-20685-09 Revisions4, 5 and 6/GT-100038-20685-10 Revisions 6, 7, and 8* into clause B-9999 which extends the completion dates from September 30, 2011 to September 30, 2012 and adds year three final milestone dates, deliverables, and performance outcomes for the three work authorizations issued under American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 (Recovery Act) modification 172. The extensions and deliverables are at no additional cost to the government and will be performed using the existing funds obligated in modifications 133 and 173 as appropriated under the special statutory conditions under the Recovery Act.

   Incorporate work authorization *AT/NS50/9/ARRA-1 Rev 2* into clause B-9999 which extends the completion dates from September 30, 2011 to May 31, 2012 for completion of the final two milestone dates, deliverables, and performance outcomes for the work authorizations issued under American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 (Recovery Act) modifications M083 and M091 . The extension and deliverables are at no additional cost to the government and will be performed using the existing funds obligated in modifications A084 and A092 as appropriated under the special statutory conditions under the Recovery Act.

3. All other terms and conditions remain unchanged.

Part I - The Schedule, Sections B through H

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Section B - SUPPLIES OR SERVICES AND PRICES/COSTS

B-1 SERVICES BEING ACQUIRED (Mod 196)

(a) The Offeror (also referred to herein as "Contractor") shall, in accordance with the terms and conditions of this Contract, provide the personnel, equipment, materials, supplies, and services, (except as may be furnished by the Government) and otherwise do all things necessary for, or incident to providing its best efforts to effectively, efficiently and safely manage and operate the Lawrence Livermore National Laboratory (hereinafter "the Laboratory" or "LLNL") for the U.S. Department of Energy (DOE) National Nuclear Security Administration (NNSA).

(b)With respect to those portions of the real property (including fixtures) identified in Part III, Section J, Appendix B, the Contractor's rights and responsibilities under this Contract extend only to the provision and maintenance of security, utilities, roads and other rights of way, and fire protection for such property pursuant to the land management policies, rules and guidelines of the DOE. Contractor's personnel shall go onto such property solely to provide such services, except as needed to obtain access to the laboratory. Contractor acts solely in the capacity of a custodian with respect to such property. The use of such property resides solely in the discretion of the Government, and such property and other structures thereon shall remain vacant and unoccupied during the term of this Contract unless otherwise specified in the Contract or other direction provided by the Contracting Officer. The Contractor shall not sublease, rent or otherwise designate any third parties to use such property except for third parties to whom Contractor may subcontract Contractor's property maintenance functions described above. The Contractor shall not use such property for the performance of its other duties under this Contract, or construct of place any structures or fixtures thereon or otherwise develop such property without obtaining the prior written consent of the Contracting Officer.

(c) NNSA directed the Contractor to proceed with the "one site/two laboratory" strategic tasking whereby Lawrence Livermore National Laboratory (LLNL) and Sandia National Laboratories (SNL-CA examine each other's laboratory operations for joint operations opportunities to produce a more efficient and effective operations but not necessarily cost savings. In addition to the requirements of paragraph (b) above, the real property (including fixtures) identified in Part III, Section J, Appendix B is expanded to include the SNL-CA site only, the Contractor's rights and responsibilities at the SNL-CA site extend only to the provisions approved by the Contracting Officer as part of the "one site/two laboratory" strategic tasking.

(d) As used in this clause, "nuclear materials" means source material, special nuclear material, and other materials to which DOE Directives regarding the control of nuclear materials apply. The Contractor shall, in a manner satisfactory to the Contracting Officer

and in accordance with DOE Directives, establish and maintain a materials management program, establish according and measurement procedures, maintain current records, and institute appropriate control measures for nuclear materials in its possession commensurate with the national security and applicable DOE Directives. Except as otherwise authorized by the Contracting Officer, nuclear materials in the Contractor's possession, custody, or control shall be used only for furtherance of the work under this Contract. The Contractor shall include in every subcontract involving the use of nuclear material for which the Contractor has accountability, appropriate terms and conditions for the use of nuclear materials and the responsibilities of the subcontractor regarding control of nuclear materials. DOE recognizes that, with respect to the real property (including fixtures) identified in Part III, Section J, Appendix B, which are used in conjunction with the control of "nuclear materials," the Contractor's sole role is limited to complying with national security and applicable DOE Directives concerning their storage and control.

B-2 CONTRACT TYPE AND VALUE (Mod M053, M107, 196, 232, 241)

(a) This Contract is a Cost-Reimbursement Management and Operating type contract that includes a Fixed Fee and a Performance Incentive Fee for the Basic Term of the Contract and the Award Term earned periods. Fee is associated with the DOE/NNSA work and Reimbursable work. DOE/NNSA Work as used herein is the work performed by the Contractor that is funded out of the Laboratory's Table included in the President's annual budget request for LLNL. Reimbursable work as used herein is the work performed by the Contractor that is not funded out of the Laboratory's Table included in the President's annual budget request for LLNL.

(b) Contract's Transition Term.

(1) The Transition Term of the Contract is:

Transition Term of the Contract	Final Cost
09May07 – 30Sep07	$ 10,097,436.78

(2) The Transition Term effort shall be performed on a Cost-Reimbursement, no fee basis. The Transition Period is now closed. Final cost and payment was made on Modification 206.

(c) Total Estimated Cost, including Fee, for the Contract's Basic Term related to the DOE/NNSA work effort, excluding Reimbursable work.

(1) The Total Estimated Cost, including fee, for the DOE/NNSA work effort, excluding Reimbursable work, for the Basic Term of the Contract is:

Basic Term of the Contract	Total Estimated Cost and Fee
01Oct07 – 30Sep08	$1,260,000,000
01Oct08 – 30Sep09	$1,260,000,000
01Oct09 – 30Sep10	$1,260,000,000
01Oct10 – 30Sep11	$1,260,000,000
01Oct11 – 30Sep12	$1,260,000,000
01Oct12 – 30Sep13	$1,260,000,000
01Oct13 – 30Sep14	$1,260,000,000

(2) The Maximum Available Fee related to the DOE/NNSA work effort, excluding Reimbursable work, for the Basic Term of the Contract is:

Contract Period	Maximum Available Fee
01Oct07 – 30Sep08	$45,542,169
01Oct08 – 30Sep09	$45,542,169
01Oct09 – 30Sep10	$42,506,024
01Oct10 – 30Sep11	$42,506,024
01Oct11 – 30Sep12	$42,506,024
01Oct12 – 30Sep13	$39,469,880
01Oct13 – 30Sep14	$39,469,880

(3) Since the Maximum Available Fee has been established, there will be no annual negotiation of the Maximum Available Fee. However, in the event the Congressional appropriation for a particular fiscal year deviates by more than (plus or minus) 10% from the Total Estimated Cost and Fee, the Contracting Officer shall unilaterally modify the Contract to adjust the Maximum Available Fee for DOE/NNSA related work amounts, excluding for Reimbursable work, utilizing the calculation method described below.

$$\frac{\text{Congressional Appropriation}}{\text{Total Estimated Cost \& Fee}} \times \text{Maximum Available Fee} = \text{Adjusted Maximum Available Fee for that Year}$$

(4) For FY 2008 through FY 2014, 30% of the Maximum Available Fee will be applied to Fixed Fee and 70% of the Maximum Available Fee will be applied to Performance Incentive Fee.

(d) The Maximum Available Fee related to the DOE/NNSA work effort, excluding Reimbursable work, for each Award Term period earned by the Contractor is:

(1) For the Award Term period specified in (d)(2) below, 30% of the Maximum Available Fee will be applied to Fixed Fee and 70% of the Maximum Available Fee will be applied to Performance Incentive Fee.

(2) The Fixed Fee for each Award Term period earned by the Contractor related to the DOE/NNSA work effort, excluding Reimbursable work, is

0.90% of the Total Estimated Cost. The Total Estimated Cost is the Laboratory Table amount included in the President's Budget request to Congress, divided by 1.03.

Contract Period	Total Estimated Cost	Fixed Fee
01Oct14 – 30Sep15	$ *	$ *
01Oct15 – 30Sep16	$ *	$ *

[*To be completed by the Contracting Officer prior to the applicable award term period.]

(3) The Maximum Available Performance Incentive Fee for each Award Term period earned by the Contractor related to the DOE/NNSA work effort, excluding Reimbursable work, is 2.1% of the Total Estimated Cost. The Total Estimated Cost is the Laboratory Table amount included in the President's Budget request to Congress, divided by 1.03.

Contract Period	Total Estimated Cost	Maximum Available Performance Incentive Fee
01Oct14 – 30Sep15	$ *	$ *
01Oct15 – 30Sep16	$ *	$ *

[*To be completed by the Contracting Officer prior to the applicable award term period.]

The sum of the Total Estimated Cost plus the Fixed Fee and Maximum Available Performance Incentive Fee is the total Laboratory Table amount.

(4) In the event Congressional appropriation deviates by more than (plus or minus) 10% from the applicable fiscal year Laboratory Table in the President's Budget annual requests, the Contracting Officer shall unilaterally modify the Contract to adjust the Fixed Fee and Maximum Available Performance Incentive Fee for DOE/NNSA related work, excluding Reimbursable work. The fee will be adjusted in proportion to the change between the President's Budget and the Congressional appropriation.

$$\frac{\text{Congressional Appropriation}}{\text{President's Budget}} \times \text{Maximum Available Fee} = \text{Adjusted Maximum Available Fee for that Year}$$

(e) Estimated Cost and Fee for Reimbursable Work.

(1) The estimated cost and the maximum available fee for FY 2008 and each subsequent fiscal year during the Basic Term of the Contract and for each Award Term period earned by the Contractor, will be established by

NNSA prior to the commencement of the applicable fiscal year and will be incorporated into paragraph (e)(2) below through a modification to this clause. The fee for each reimbursable work project will be 2.5% of the estimated cost of each project. If the work sponsor or the Government subsequently orders material changes in the amount or character of the Reimbursable Work, an equitable adjustment of the fee, if any, shall be made in accordance with the "Changes" clause. If the Contractor anticipates exceeding the estimated cost for reimbursable work due to new reimbursable work projects, an adjustment to the estimated cost and maximum available fee for reimbursable work shall be submitted for approval by the Contracting Officer.

(2) The maximum available fee for each fiscal year shall be 2.5% of the estimated cost of NNSA's total estimated budget for reimbursable work. The estimated cost and maximum available fee related to the reimbursable work effort for the specified period is:

Contract Period	Estimated Cost	Maximum Available Fee	Estimated Cost + Max Available Fee
01Oct07 – 30Sep08	$ 328,000,000	$ 8,200,000	$ 336,200,000
01Oct08 – 30Sep09	$ 332,000,000	$ 8,300,000	$ 340,300,000
01Oct09 – 30Sep10	$ 290,000,000	$ 7,250,000	$ 297,250,000
01Oct10 – 30Sep11	$ 318,000,000	$ 7,950,000	$ 325,950,000
01Oct11 – 30Sep12	$ 320,000,000	$ 8,000,000	$ 328,000,000
01Oct12 – 30Sep13			
01Oct13 – 30Sep14			
01Oct14 – 30Sep15			
01Oct15 – 30Sep16			

(f) Provisional Payment of Fee.

(1) The Fixed Fee for FY 2008 and each subsequent fiscal year shall be paid monthly at the rate of one-twelfth (1/12) of the annual fixed fee amount per month. Such payment amounts are to be drawn down by the Contractor from the Contract's special financial institution account in monthly installments on the last day of each month.

(2) (i) The Performance Incentive Fee for DOE/NNSA related work, excluding Reimbursable work, is authorized for draw down by the Contractor from the Contract's special financial institution account as follows:

(I) in monthly provisional fee payments equivalent to 3% of the Maximum Available Performance Incentive Fee, and

(II) the balance, if any, upon issuance of the Contracting Officer's notification in accordance with the Section H Clause entitled "Performance Incentives."

(ii) If the provisional payments made in (2)(i) above exceed the Performance Incentive Fee earned determination, the Contractor shall remit any balance due payable to the Government in accordance with directions to be provided by the Contracting Officer.

(g) Except for the condition identified in (c)(3) and (d)(4) above, there shall be no adjustment in the amount of the Contractor's fee by reason of differences between any estimate of cost for performance of the work under this Contract and the actual cost of performance of that work.

(h) Pursuant to the Contract's Section I Clause entitled "Obligation of Funds," the total amount obligated by the Government is $10,097,436.78 and associated accounting and appropriation data is:

Fund	Year	Report	SGL	Object Class	Program	Amount
00900	2007.01	100351	61000000	25200	2220660	$ 867,500
00900	2007.01	100351	61000000	25200	2220743	$ 1,750,000
00900	2007.01	100351	61000000	25200	2221940	$ 365,000
00900	2007.01	100351	61000000	25200	2221079	$ 1,270,500
01551	2007.01	100351	61000000	25200	2220210	$ 1,239,000
00900	2007.01	100351	61000000	25200	2220660	$ 595,000
00900	2007.01	100351	61000000	25200	2220684	$ 290,279
00900	2007.01	100351	61000000	25200	2220715	$ 725,000
00900	2007.01	100351	61000000	25200	2220723	$ 174,157.78
00900	2007.01	100351	61000000	25200	2221925	$ 965,000
00900	2007.01	100351	61000000	25200	2221946	$ 600,000
00900	2007.01	100351	61000000	25200	2220803	$ 600,000
00900	2006.01	100351	61000000	25200	2220785	$ 315,000
00900	2007.01	100351	61000000	25200	2221949	$ 88,000
00900	2007.01	100351	61000000	25200	2222031	$ 253,000

(i) (1) If the Contractor is part of a "teaming arrangement" as defined in Federal Acquisition Regulation (FAR) 9.601, the team shall share in the Fixed Fee and Performance Fee structure in paragraphs (c), (d) and (e) of this clause. Separate additional subcontractor fees for individual team members will not be considered an allowable cost under the Contract.

(2) If a subcontractor, supplier, or lower-tier subcontractor is a wholly owned, majority owned, or affiliate of any team member, any fee or profit paid to such entity will not be considered an allowable cost under this Contract unless otherwise approved by the Contracting Officer.

B-9999 AMERICAN RECOVERY AND REINVESTMENT ACT WORK VALUES (Mod M083, M099, M104, M123, M124, M131, 140, 142, 153, 155, 160, 166, 170, 171, 172, 177, 179, 181, 189, 230, 232, 241)

Total Funds authorized including maximum available performance fee, if any, for work funded under the American Recovery and Reinvestment Act (Recovery Act).

Year	Work Authorization Number	Funds Obligated	Closed Out	Funds Deobligated	Final Costed Amount
2009	KB/NS50/9/ARRA-1	$675,000			
2009	KB/NS50/9/ARRA-1 Rev 1	$75,000			
2009	KB/NS50/9/ARRA-1 Rev 2	$0			
2009	AT/NS50/9/ARRA-1	$728,000			
2009	AT/NS50/9/ARRA-1 Rev 1	$82,000			
2011	AT/NS50/9/ARRA-1 Rev 2	$0			
2009	09/CJ000/00/01 Rev 1	$6,000	Y	($11.38)*	$5,988.62
2009	09/CJ000/00/02	$24,000	Y	($14,701.98)*	$9,298.02
2010	09/CJ000/00/03	$30,000	Y	($30,000)*	$0.00
2010	09/CJ000/00/04	($44,713.36)*	N/A	N/A	N/A
2009	KB/NS50/9/ARRA-2	$1,287,000			
2010	KB/NS50/9/ARRA-2 Rev 1	$0			
2009	GT-100038-20685-09	$615,000			
2009	GT-100038-20685-09 Rev 1	$555,000			
2009	GT-100038-20685-09 Rev 2	$555,000			
2010	GT-100038-20685-10	$410,000			
2010	GT-100038-20685-10 Rev 1	$370,000			
2010	GT-100038-20685-10 Rev 2	$370,000			
2010	GT-100038-20685-10 Rev 3	$65,570			
2010	GT-100038-20685-10 Rev 4	$54,015			
2010	GT-100038-20685-10 Rev 5	$74,065			
2011	GT-100038-20685-09 Rev 3 & GT-100038-	$0			

	20685-10 Rev 6				
2011	GT-100038-20685-09 Rev 4 & GT-100038-20685-10 Rev 7	$0			
2011	GT-100038-20685-09 Rev 5 & GT-100038-20685-10 Rev 8	$0			
2009	100038-20758-10	$121,900	Y	($121,900)	$0.00
2010	100038-20758-10 Rev 2	($121,900)	N/A	N/A	N/A
2010	100038-21195-10	$121,900			
2010	LLNL-10-FEW0173	$200,000	Y	($49,220.37)	$150,779.63
2011	LLNL-10-FEW0173 Rev 1	($49,220.37)	N/A	N/A	N/A
2010	AT/NS50/10/ARRA-2	$187,000	Y	($6,491.70)	$180,508.30
2011	AT/NS50/10/ARRA-2 Rev 1	($6,491.70)	N/A	N/A	N/A
2010	AT/NS50/10/ARRA-3	$2,500,000			
2010	AT/NS50/10/ARRA-3 Rev 1	$0.00			
2010	KJ/NS50/0/ARRA-1	$2,562,506			
2010	KJ/NS50/0/ARRA-1 Rev 1	$0.00			
2010	KJ/NS50/0/ARRA-1	$147,000			
2010	KJ/NS50/0/ARRA-1 Rev 1	$16			
2010	KJ/NS50/0/ARRA-2	$560,000			
2010	KJ/NS50/0/ARRA-2 Rev 1	$39,375			
2011	KJ/NS50/0/ARRA-2 Rev 2	$0			
2010	09/CJ000/05/01	$3,332,000			
2010	LLNL-10-FEW0180	$2,000,000			
2010	LLNL-10-FEW0181	$2,000,000			

The Contractor shall not start work funded under the Recovery Act until the Contractor receives a Work Authorization and funds are placed into the Contract. The Contractor is authorized to incur costs not to exceed the amount as stipulated under each Work Authorization, consistent with the other Contract terms and conditions, including the Work Authorization(s). Additional fee, if any, for the performance of work under the Recovery Act shall be determined by NNSA in accordance with Section B-2 and applicable NNSA policy.

Section C – DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C-1 STATEMENT OF WORK (Mod 196)

The work to be performed is set forth in the Contract's Section J Appendix B entitled "Statement of Work."

Section D – PACKAGING AND MARKING - Reserved

Section E – INSPECTION AND ACCEPTANCE

E-1 FAR 52.246-5 INSPECTION OF SERVICES – COST-REIMBURSEMENT (APR 1984)

(a) *Definition.* "Services," as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may-

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may-

(1) By contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances; or

(2) Terminate the contract for default.

E-2 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 or disrupt 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.

E-3 INSPECTION AND ACCEPTANCE

If the Government performs inspection of activities or acceptance of work efforts under this contract such inspection or acceptance will be accomplished by the Contracting Officer or any other duly authorized representative.

Section F - DELIVERIES OR PERFORMANCE

F-1 PLACE OF PERFORMANCE

The work under this Contract is to be carried out at a variety of locations within and outside the United States, but the principal place of performance will be at the Lawrence Livermore National Laboratory in Livermore, California.

F-2 PERIOD OF PERFORMANCE (Mod 196, 232)

(a) The Contract's period of performance includes the following unless sooner reduced, terminated or extended in accordance with the provisions of this Contract:
(1) Transition Term (09May07 through 30Sep07);
(2) Basic Term (01Oct07 through 30Sep14), earned award term (01Oct14 through 30Sep15); earned award term (01Oct15 through 30Sep16); and
(3) Award Term, if earned, additional one year Award Term periods (01Oct16 though 30Sep27).

(b) The period of performance of this contract will expire on September 30, 2016 unless modified for each earned Award Term. For each earned or forfeited Award Term period(s), the Contract will be modified consistent with Clause H-13, Award Term, and the period of performance will be adjusted.

(c) The Contract's maximum period of performance, if extended beyond the Basic Term of the Contract, shall not exceed twenty (20) years, approximately 4 months 23 days.

(d) The Transition Term shall be for the transition activities identified in the Contract Section J Appendix K entitled "Contractor's Transition Plan" issued under modification M000. The Contractor's responsibility for management and operation of the Laboratory against the Statement of Work shall commence with the Basic Term. The Award Term conditions are set forth in the Contract's Section H Clause entitled "Award Term."

F-3 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 for 90 days after

a stop-work order 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 Contract's Section I Clause entitled "Termination (Cost Reimbursement)."

(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 a proposal 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.

Section G – CONTRACT ADMINISTRATION DATA

G-1 GOVERNMENT CONTACTS (Mod 196, 232)

(a) The NNSA Manager, Livermore Site Office (LSO), is the Contractor's primary point of contact for all technical and administrative matters, except as identified in (b) below, regarding this Contract. The LSO Administrative Contracting Officers are the Contractor's primary point of contact for all contractual matters for this Contract. The LSO Manager and LSO Administrative Contracting Officers can be reached at:

U.S. Department of Energy
National Nuclear Security Administration
Livermore Site Office
7000 East Avenue, Mail Stop L293
Livermore, CA 94551
Telephone: 925-422-0879

(b) The Patent Counsel, Office of Chief Counsel, NNSA Albuquerque Complex, is the Contractor's focal point for items concerning patent, intellectual property, technology transfer, copyright, open source, licenses and technical data issues. The Patent Counsel can be reached at DOE/NNSA Albuquerque Complex, Office of Chief Counsel, P.O. Box 5400, Albuquerque, New Mexico, 87185-5400; Telephone: (505) 845-5172.

(c) Correspondence. To promote timely and effective administration, correspondence submitted under this Contract shall contain a subject line commencing with the Contract Number, as illustrated below:

"SUBJECT: Contract No. DE-AC52-07NA27344, (insert subject topic after Contract Number, e.g., "Request for subcontract placement approval")"

G-2 CONTRACTOR CONTACT

(a) The Contractor's Laboratory Director is responsible for all matters regarding this Contract, except for the Contractor's Parent Organization's involvement under the Contract. Parent Organization's costs, incurred under this Contract, have the same meaning as Home Office Expenses in Department of Energy Acquisition Regulation 970.3102-3-70 "Home office expenses".

(b) The Contractor shall identify to the Livermore Site Office Contracting Officer the contracting contact who has the authority and is responsible for managing, administering, and negotiating changes to the terms and conditions of this contract as well as executing contract modifications on behalf of the contractor.

Section H – SPECIAL CONTRACT REQUIREMENTS

H-1 REDEFINING THE FEDERAL/CONTRACTOR RELATIONSHIP TO IMPROVE MANAGEMENT AND PERFORMANCE

(a) General

This clause sets forth an overview of NNSA's approach to improving the effectiveness and efficiency of the Nuclear Weapons Complex without compromising Integrated Safety Management (ISM) and Integrated Safeguards and Security Management (ISSM). The principles of ISM and ISSM shall serve as the foundation of the implementing mechanisms at the Laboratory.

(b) Clarifying the Contract Relationship

NNSA will establish the work to be accomplished by the Contractor, set applicable requirements to be met by the Contractor and provide performance direction to the Contractor regarding what NNSA wants in each of its programs. NNSA will issue performance direction to the Contractor only through a warranted Contracting Officer or a designated Contracting Officer's Representative. All other Federal staff and oversight components are therefore precluded from tasking contractor personnel. The Contractor shall utilize its expertise and ingenuity in determining how to perform the work, implement NNSA requirements, and to comply with NNSA performance direction. The Contractor is accountable for assuring safe, secure, effective and efficient operations in accordance with the terms and conditions of this Contract.

(c) Approach to Oversight

NNSA will increase Contractor accountability as a result of implementation of the Contractor's Assurance System to achieve improved Contractor performance in all aspects of the Contract. Parent Organization oversight of the Contractor's implementation of the Assurance System is key to achieving performance improvements. NNSA will assess Contractor progress in improvement of its performance resulting from implementation of the Assurance System. At all times during the term of the Contract, NNSA will continue, preserve and maintain the right to determine the level of NNSA oversight of all Contractor activities under this Contract. NNSA's oversight program will ensure that the Contractor's activities provide adequate protection to the health and safety of workers and the public.

(d) Empowering Contractor Expertise

The Contractor is encouraged to identify and evaluate best commercial standards and best business practices and to continuously pursue improvements in all aspects of Contract performance where cost effective and efficient improvements

can be achieved without compromising ISM and ISSM. The Contractor is also encouraged to use the private-sector expertise of its Parent Organizations to improve Contract performance as appropriate.

(e) Results-Oriented, Streamlined Performance Appraisal

Performance objectives that focus on those areas of greatest strategic value to NNSA, and systems-based measures and targets will be used in a results-oriented, streamlined performance appraisal process.

(f) Reward for Achieving Cost Efficiencies

The Contractor will be rewarded for the achievement of cost efficiencies through investment of cost savings at the Laboratory and through Contractor Directed Research and Development and the opportunity to earn additional Contract term.

H-2 PERFORMANCE DIRECTION

(a) The Contractor is responsible for the management and operation of the site in accordance with the Terms and Conditions of the Contract, duly issued Work Authorizations (WAs), and written direction and guidance provided by the Contracting Officer and the Contracting Officer's Representative (COR). NNSA is responsible for establishing the work to be accomplished, the applicable requirements to be met, and overseeing the performance of work of the Contractor. The Contractor will use its expertise and ingenuity in Contract performance and in making choices among acceptable alternatives to most effectively, efficiently and safely accomplish the work called for by this Contract

(b) Only the Contracting Officer may issue, modify, and priority rank WAs.

(c) (1) The Contracting Officer and the NNSA Administrator will appoint, in writing, specific NNSA employees as CORs with the authority to issue Performance Direction to the Contractor. CORs are authorized to act within the limits of their delegation letter. A copy of each letter will be provided to the Contractor. COR functions include technical monitoring, inspection, and other functions of a technical nature not involving a change in the scope, cost, or terms and conditions of the Contract. The COR is authorized to review and approve technical reports, drawings, specifications, and technical information delivered by the Contractor.

(2) The Contractor must comply with written Performance Directions that are signed by the COR and:

(i) Redirect the Contract effort, shift work emphasis within a work area or a WA, require pursuit of certain lines of inquiry, further

define or otherwise serve to accomplish the Statement of Work (SOW), or

(ii) Provide information that assists in the interpretation of drawings, specifications, or technical portions of the work description.

(3) Performance Direction does not:

(i) authorize the Contractor to exceed the funds obligated on the Contract;

(ii) authorize any increased cost or delay in delivery in a WA;

(iii) entitle the Contractor to an increase in fee; or

(iv) change any of the terms or conditions of the Contract.

(d) The Contractor shall accept only Performance Direction that is provided in writing by a COR and that is within the SOW and a WA.

(e) (1) The Contractor shall promptly comply with each duly issued Performance Direction unless the Contractor reasonably believes that the Performance Direction violates this clause. If the Contractor believes the Performance Direction violates this clause, the Contractor shall suspend implementation of the Performance Direction and promptly notify the Contracting Officer of its reasons for believing that the Performance Direction violates this clause. Oral notification to the Contracting Officer shall be confirmed in writing within ten days of the oral notification.

(2) The Contracting Officer will determine if the Performance Direction is within the SOW and WA. This determination will be issued in writing and the Contractor shall promptly comply with the Contracting Officer's direction. If it is not within the SOW or WA, the Contracting Officer may issue a change order pursuant to the Contract's Section I Clause entitled "Changes."

(f) The Parties agree to maintain full and open communication at all times, and on all issues affecting Contract performance, during the term of this Contract.

H-3 CONTRACTOR MULTI-YEAR STRATEGY FOR PERFORMANCE IMPROVEMENT

The Contractor shall develop a multi-year strategy that details (1) its planned efforts and expected accomplishments by year, to continuously improve its management and performance at the Laboratory, and (2) the planned efforts and contributions of its Parent Organizations. The multi-year strategy shall also address planned efforts to (1) enhance Contractor communications, cooperation and integration with the NNSA Weapon

Complex, with emphasis on Los Alamos National Laboratory; and, (2) contribute to overall NNSA Weapon Complex improvements in performance. The listing of the Contractor's planned efforts and expected accomplishments from its Offer in response to Solicitation No. DE-RP52-06NA27344 for FY 2008 and FY 2009 shall be addressed in the initial multi-year strategy. Subsequent annual updates shall be submitted to the Contracting Officer no later than May 15th of each year and cover the next five years of the contract period of performance. Performance measures for these planned efforts and expected accomplishments may be included in the Contract's Performance Evaluation Plan.

H-4 CONTRACTOR ASSURANCE SYSTEM

The Contractor shall develop a Contractor Assurance System to improve management and performance. The Contractor Assurance System shall be approved and monitored by the Contractor's Board of Directors. The Contractor shall submit the Contractor Assurance System to the Contracting Officer for review and approval not later than sixty days after the award date of this Contract and, any subsequent changes shall also be submitted for review and approval. Such Contracting Officer approval does not relieve the Contractor and its Board of Directors from accountability for the improvements in overall Laboratory performance expected to result from Contractor Assurance System implementation. The Contractor's Assurance System, at a minimum, shall have the following key attributes:

(a) Contractor vision, commitment to mission, operational and business excellence, including clearly defined statements of accountability.

(b) A comprehensive, written, Contractor Assurance System description exists which includes clearly defined risks, key activities, and identified accountabilities.

(c) Senior Contractor Management approves and provides assurance to the Contracting Officer in an annual assurance statement, that the management system utilized by the Contractor is adequate to provide reasonable assurance that its objectives are being accomplished and that the systems and controls continue to be operational.

(d) A process for notifying NNSA of assurance system changes is established.

(e) A method for validating Contractor Assurance System credibility is established.

(f) Associated qualification and training requirements for key work activities are defined.

(g) A formal and NNSA-accepted process is used to identify necessary and sufficient requirements, including risk-based formal process/procedure documentation that apply to each of the business model activities.

(h) Rigorous, risk-based, credible self-assessment and feedback and improvement activities, including utilization of nationally recognized experts and other independent reviews to assess and improve its work process and to carry out risk and vulnerability studies, as appropriate, are established.

(i) A process exists for defining performance metrics and targets to assess mission effectiveness, including benchmarking of key functional areas with other NNSA/DOE contractors and industry and research institutions. This will enhance processes that should result in achievement of best in class performance where efficient and cost effective.

(j) A process for assessing, prioritizing and managing risk is established.

(k) A risk-based graded approach that focuses contractor resources on those areas where more rigorous performance assessment is required.

(l) A process exists for defining expected results in terms of performance metrics for work activities.

(m) Detailed performance observations and effective feedback and improvement mechanisms exist for work activities that analyze deficiencies, individually and collectively from all sources to identify positive and negative trends of programmatic/systemic issues.

(n) A process exists for timely analysis of performance data including root cause analysis, indicators, and corrective actions to improve performance.

(o) A continuous improvement and effective quality assurance process, including benchmarking of work activities against external standards or high performing businesses is defined.

(p) A formal process exists for timely and appropriate communications of performance related information [e.g. Lessons Learned and event reporting, to identify, report, analyze, and address operational events and safety issues]. The corrective actions for issues identified in these programs must effectively feed into site issue trending analyses.

(q) A process for timely and appropriate communication to the Contracting Officer, including electronic access, of all assurance related information.

H-5 NNSA OVERSIGHT

At all times during the term of this Contract, NNSA will continue, preserve and maintain the right to determine the level of NNSA oversight of all Contractor activities under this Contract. In addition to the rights and remedies provided to the Government under other provisions of this Contract, the Contractor shall fully cooperate with NNSA oversight

personnel, NNSA Facility Representatives, and subject matter experts in the performance of their assigned oversight functions, and shall provide complete access to facilities, information, and Contractor personnel. NNSA's oversight program will ensure that the Contractor's activities provide adequate protection to the health and safety of workers and the public.

H-6 PARENT OVERSIGHT PLAN (M053, M107, 164, 232)

(a) On an annual basis, the Contractor shall provide a Parent Oversight Plan that details the Parent Organization's planned activities to monitor the Contractor's performance of statement of work activities including ISM and ISSM performance, and to assist the Contractor in meeting Laboratory mission and operational requirements. Elements of the Plan may be incorporated into the Laboratory's Performance Evaluation Plan. The Parent Oversight Plan for the FY 2008 is set forth as an appendix to the Contract's Section J. The Parent Oversight Plan shall identify the official(s) responsible for administration of the plan.

(b) The annual Parent Oversight Plan update shall be submitted to the Contracting Officer six months prior to the forthcoming fiscal year for Contracting Officer review and approval.

(c) The annual estimated cost for the Parent Oversight Plan is detailed below by contract period. Costs associated with subsequent annual Plan updates for the remainder of the Contract term will be incorporated into this clause via supplemental agreement modification. Costs shall only include: the actual direct labor costs of the persons performing such services; a percentage factor of direct labor costs to cover fringe benefits and payroll taxes; travel; and other direct costs. Any fee or other indirect costs such as allocation for overhead, G&A, and Cost of Money will not be reimbursed. The Contractor shall charge to the account of the Government using the special financial institution account as provided in the Contract's Section I Clause entitled "Payments and Advances," or as otherwise directed by the Contracting Officer.

Contract Period	Cost Estimate	Mod #
10/01/2007-09/30/2008	$4,177,243	M-003
10/01/2008-09/30/2009	$3,712,955	M-053
10/01/2009-09/30/2010	$2,344,137	M-107
10/01/2010-09/30/2011	$2,285,990	164
10/01/2011-09/30/2012	$2,283,058	232
10/01/2012-09/30/2013		
10/01/2013-09/30/2014		
10/01/2014-09/30/2015		
10/01/2015-09/30/2016		

(d) The Contractor shall provide periodic reports of Parent Oversight activities and costs incurred as required by the Contracting Officer.

Contract Period	Actual Costs	Mod #
10/01/2007-09/30/2008	$2,063,575	164
10/01/2008-09/30/2009	$1,926,908	164
10/01/2009-09/30/2010	$1,526,147	232
10/01/2010-09/30/2011		
10/01/2011-09/30/2012		
10/01/2012-09/30/2013		
10/01/2013-09/30/2014		
10/01/2014-09/30/2015		
10/01/2015-09/30/2016		

(e) Cost limitations set forth in paragraph (c) above shall not be exceeded without prior Contracting Officer approval. The Parties agree that the costs may be reviewed further for appropriateness and scope. In addition, the Parties agree that a tracking process, acceptable to the Contracting Officer, providing sufficient detail for reasonable accountability, shall be implemented. The Parties agree to negotiate in good faith any adjustments to these amounts as a result of empirical information from any such tracking system or reviews.

H-7 ACCOUNTABILITY

The Contractor is responsible for the quality of its products and services and for ensuring that ISM and ISSM are integrated into its operations. The Contractor is also responsible for assessing its operations, programs, projects and business systems, identifying deficiencies and implementing needed improvements in accordance with the Contract's terms and conditions. Where NNSA oversight has evaluated the Contractor's performance in meeting its obligations under this Contract, the Contractor shall not rely upon NNSA's assessment but is accountable for performing its own assessment of these areas.

H-8 UTILIZATION OF PARENT ORGANIZATION SUPPORT (M053, M107, 164, 232)

(a) Parent Organization Systems

(1) The Parties agree that applying the Contractor's Parent Organization systems to site operations for the purpose of streamlining the Laboratory's operational, administrative and business systems, and Parent Organization services provided for that purpose, are allowable costs. The use of the Contractor's Parent Organization systems is encouraged provided that such systems are more efficient and represent an overall cost savings to the Government versus existing site systems, and data is readily transferable to a successor contractor. The Contracting Officer must approve the Contractor's proposed plan to use its Parent Organization systems. Such system and related support services are not considered a

"Subcontract" as contemplated by the Contract's Section I Clause entitled "DEAR 970.5244-1 Contractor Purchasing System.(Deviation)"

(2) If the Contractor's proposed plan is approved by the Contracting Officer, the Contractor may incur amounts for the approved systems and related support services and shall charge to the account of the Government using the special financial institution account as provided in the Contract's Section I Clause entitled "Payments and Advances," or as otherwise directed by the Contracting Officer. Costs shall only include: the actual direct labor costs of the persons performing such services; materials; subcontracts; travel; other direct costs; and applicable indirect costs applied in accordance with the Contractor's Parent Organization's disclosed accounting practices, or, if applicable, Cost Accounting Standards Disclosure Statement. A separate fee for use of such systems and associated services is unallowable.

(3) The Contractor shall provide periodic reports of activities and costs incurred as required by the Contracting Officer.

(4) Rights in software and systems. The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license by or for the Government, in any Contractor-owned software and systems brought in and used under this Clause. Said license shall be limited to the continued operations of the Lawrence Livermore National Laboratory by successor contractors.

(b) Parent Organization Experts

(1) The utilization of Parent Organization experts, which are defined herein as employees of Parent Organizations, for the purpose of achieving improvement in management and performance either to resolve deficiencies identified through Parent Organization oversight or in accordance with the Section H clause entitled "Contractor Multi-Year Strategy For Performance Improvement" are allowable costs subject to the conditions contained herein. Such Parent Organization experts' services are not considered a "Subcontract" as contemplated by the Contract's Section I Clause entitled "DEAR 970.5244-1 Contractor Purchasing System." The total estimated cost for Parent Organization experts' services is to be determined by the Contracting Officer during the Transition Period, and annually thereafter, and added via supplemental agreement contract modification.

Contract Period	Estimated Cost	Actual Cost	Mod #
10/01/2007-09/30/2008	$925,000	$724,863.00	M-107
10/01/2008-09/30/2009	$1,250,000	$675,459.78	164
10/01/2009-09/30/2010	$4,000,000	$ 282,026	M107/232
10/01/2010-09/30/2011	$1,250,000		164
10/01/2011-09/30/2012			
10/01/2012-09/30/2013			
10/01/2013-09/30/2014			
10/01/2014-09/30/2015			
10/01/2015-09/30/2016			

(2) The Contractor may incur costs for its Parent Organization experts and shall charge to the account of the Government using the special financial institution account as provided in the Contract's Section I Clause entitled "Payments and Advances," or as otherwise directed by the Contracting Officer. Costs shall only include: the actual direct labor costs of the persons performing such services; a percentage factor of direct labor costs to cover fringe benefits and payroll taxes; travel; and other direct costs. Any fee or other indirect costs such as allocation for overhead, G&A, and Cost of Money will not be reimbursed.

(3) The Contractor shall provide periodic reports of activities and costs incurred as required by the Contracting Officer.

H-9 BENCHMARKING AND STANDARDS MANAGEMENT

(a) Benchmark with Industry. The Contractor shall regularly benchmark with industry to identify best commercial standards and best business practices that will improve site operations with the goal of improving performance where effective and efficient without compromising ISM and ISSM.

(b) Proposal of Alternative. Where best commercial standards or best business practices are identified that will improve site operations consistent with paragraph (a) above, the Contractor may, at any time during performance of this Contract, propose an alternative procedure, standard, or assessment mechanism (collectively referred to herein as "alternative") in a Directive or DOE/NNSA requirement by submitting to the Contracting Officer a signed proposal(s) that describes (1) the nature and scope of the alternative and Contractor system of oversight, (2) the anticipated benefits, including any cost benefits, to be realized in performance under the Contract, (3) a schedule for implementation of the alternative, (4) a detailed evaluation and a statement that the revised alternative is an effective, efficient means to meet the Directive without compromising ISM and ISSM, and (5) any additional information required by NNSA. NNSA will evaluate the Contractor's proposal, and the Contractor will not implement a proposed change until it is formally approved by the NNSA and communicated to the Contractor by the Contracting Officer.

(c) Deficiency and Remedial Action. If, during performance of this Contract, NNSA determines that a previously approved alternative is not satisfactory, the Contracting Officer will require the Contractor to prepare a corrective action plan for NNSA approval. If NNSA is not satisfied with the corrective action taken, the Contracting Officer may direct corrective action to remedy the deficiency, including, if appropriate, the reinstatement of the Directive or DOE/NNSA requirement.

(d) Laws and Regulations Exempted. The process described in this clause shall not affect the application of otherwise applicable laws and regulations of the United States, including DOE regulations.

H-10 CONTRACTOR REINVESTMENT OF COST EFFICIENCIES

(a) As soon as practical after the annual site allocations are determined, the NNSA and the Contractor may identify and agree upon listings of un-funded priority direct mission work identified by specific appropriation and budget and reporting category. Throughout the fiscal year, the Contractor shall apply cost efficiencies achieved through streamlining systems and operations only to un-funded priority direct mission work within the same appropriation and budget and reporting category (Obligation Control Level) unless a formal reprogramming action is approved by NNSA. Indirect cost savings from efficiencies, which has been documented by the Contractor, shall be returned to the mission work in the form of reduced indirect rates, applied to un-funded priority indirect work, and/or applied to Contractor Directed Research and Development (CDRD) pursuant to paragraph (b) below. The extent of un-funded priority work accomplished in each fiscal year shall serve as a key performance target when measuring the Contractor's success in improving performance and achieving cost efficiencies without compromising ISM and ISSM. Extent of un-funded priority work accomplished may also be one of the Award Term or Incentive Fee measures during the Contract's term.

(b) As an additional Laboratory incentive to achieving increased efficiencies, the NNSA will allow the Contractor to apply a percentage of the indirect costs savings realized from efficiencies toward CDRD at LLNL. The Contracting Officer shall define the percentage of savings allocated to CDRD on an annual basis. CDRD must be complementary and beneficial, to the Contract's SOW. On an annual basis, the Contractor shall develop a CDRD Plan, for Contracting Officer review and approval that, establishes: (1) the nature and scope of the CDRD planned activities, and (2) the permitted locations where CDRD is to be performed.

(c) Although it is the intent of the NNSA that the Contractor shall apply cost efficiencies at the site, the NNSA reserves the right to reallocate direct mission work cost efficiencies to other programmatic mission critical needs.

H-11 TRANSITION

Contract Clauses H-2 through H-10 provides a mechanism for the Contractor to improve its management and performance. The Laboratory's management systems that exist on the date of Contract award will continue until the Contractor addresses the applicable requirements contained in Contract Clauses H-2 through H-10. For changes that require NNSA approval, the Contractor will not implement a change until it is formally approved by the Contracting Officer.

H-12 STRATEGIC INITIATIVES

(a) The Contractor shall participate with NNSA and other NNSA M&O contractors as part of an "enterprise organization" to evaluate, plan, develop and implement strategic initiative activities that optimize mission, laboratory, and business operations across the Nuclear Weapons Complex. The goal of these initiatives is to increase the efficiency and cost effectiveness of the NWC from a business and mission perspective.

(b) Strategic business and management initiatives should result in reduced operational costs complex-wide, more consistent work practices and operational processes, better pricing, better products, more timely delivery, reduced administrative costs and lead times for both the contractor and the NNSA, greater standardization and interchangeability across the NWC, and increased awards to small business entities.

(c) Strategic mission initiatives should result in timely fulfillment of mission goals such as weapon design, development and production.

(d) The Contractor shall cooperate with NNSA and NWC facilities in identifying potential cross-NWC benefits to be derived from implementing common practices and goals across the NWC in the following areas:

(1) Mission Workload Support.
   i. Nuclear Weapons
   ii. Nuclear Non-Proliferation
   iii. Emergency Operations
   iv. Infrastructure and Environments
   v. National Security

(2) Enterprise Functional Support
   i. Enterprise Finance Operations.
   ii. Enterprise Property Operations
   iii. Enterprise Human Resource Operations
   iv. Enterprise Procurement Operations
   v. Enterprise information technology
   vi. Other business/management processes common to all or groups of

NWC facilities

(e) The Contractor shall support these and other initiatives that result in a shift to Enterprise-Led Organizations with the lead assigned based on the contractor who possesses the most expertise and experience level within the complex.

(f) The Contractor and NNSA will negotiate annual multi-site performance objectives with measurable performance outcomes of their involvement in strategic initiative efforts that would result in operational efficiencies and reduce cost overall for the Government.

H-13 PERFORMANCE BASED MANAGEMENT

(a) Performance-Based Management System. This Contract is a management and operating contract, which holds the Contractor accountable for performance. This Contract uses clearly defined standards of performance consisting of performance objectives and performance incentives including multi-site performance incentives as described in the Contract's Section H Clause entitled "Performance Incentives," and award term incentives as indicated in Contract's Section H Clause entitled "Award Term" with measures and targets for each area established on a fiscal year basis and incorporated into the Performance Evaluation Plan.

(b) Performance Appraisal Process.

(1) Performance Evaluation Plan.

(i) A Performance Evaluation Plan shall be developed and finalized by the Contracting Officer, with Contractor input, prior to the scheduled start date of the appraisal period. The Performance Evaluation Plan shall document the process and associated performance objectives, performance incentives including multi-site performance incentives, award term incentives and associated measures and targets by which the Contractor's performance will be evaluated and rated. The Parties will attempt to reach mutual agreement on performance objectives, performance incentives including multi-site performance incentives, award term incentives and associated measures and targets that reflect expected business, operational and technical performance tied to key end products and NNSA/DOE strategic goals and objectives. The NNSA Livermore Site Office Manager reserves the unilateral right to make the final decision on all performance objectives and performance incentives (including the associated measures and targets) used to evaluate Contractor performance. The NNSA Administrator reserves the unilateral right to make the final decision on all award term incentives (including the associated measures and targets) used to evaluate Contractor performance.

(ii) Only the Contracting Officer may revise the Performance Evaluation Plan, consistent with the Contract's Statement of Work, during the appraisal period of performance. The Contracting Officer shall notify the Contractor:

(I) Of such bilateral changes at least sixty calendar days prior to the end of the affected appraisal period;

(II) Of such unilateral changes at least ninety calendar days prior to the end of the affected appraisal period and at least thirty calendar days prior to the effective date of the change; or

(III) If such change, whether unilateral or bilateral, is urgent and high priority, at least thirty calendar days prior to the end of the appraisal period.

(2) Contractor Self-Assessment. The Contractor shall prepare an annual self-assessment of its performance against each of the performance objectives and incentives contained in the Performance Evaluation Plan. The annual self- assessment shall be submitted within five-working days after the end of the appraisal period. The Contracting Officer will identify the structure and medium to be used by the Contractor in delivering its annual self-assessment.

H-14 AWARD TERM (Mod M034)

(a) Commencing in Fiscal Year 2009, the Contract's term as set forth in the Contract's Section F Clause entitled "Period of Performance" will be extended if, in its annual NNSA Performance Evaluation Report, the Contractor both: (1) obtains the required rating on the Performance Incentive Fee Sections' objectives contained in the Performance Evaluation Plan (PEP); and (2) meets the Award Term Incentives set forth in the Award Term Section of the PEP. If the Contractor does not receive the required rating in (1) above, this Award Term clause becomes inoperable for the associated evaluation period.

(b) The NNSA Livermore Site Office Manager will make an award term recommendation to the NNSA Fee Determination Official (FDO) based upon his/her evaluation in accordance with paragraph (a) above. The decision whether to award additional term will be made by the FDO if the conditions in paragraph (a) above are met in conjunction with the annual performance evaluation determination.

(c) The award term decision is a unilateral determination of the FDO.

(d) If the FDO's determination is to award additional term, the Contract shall be modified unilaterally by the Contracting Officer to extend the term of the Contract by one year.

(e) The Contract's maximum term, including all earned award term, shall not exceed the term identified in the Contract Section F Clause entitled "Period of Performance."

(f) If the Contractor fails 4 times to earn award term, the operation of this Award Term clause will cease.

(g) A significant failure as determined by the Contracting Officer of the Contractor's management controls, as defined in the Contract's Section I Clause entitled "Management Controls," or a performance failure, as utilized in the Contract's Section I Clause entitled "Conditional Payment Of Fee, Profit, Or Incentives – Facilities Management Contracts," by the Contractor may result in the forfeiture of the current year Award Term period in progress, up to an additional 4-years of previously earned award term, and any other remedies provided for in the contract. Such reduction in Contract term, if exercised by the Government, does not constitute a termination action pursuant to the Contract's Section I Clause entitled "Termination (Cost Reimbursement) (May 2004) as modified by DEAR 970.4905-1(b)."

(h) The rights and remedies of the Government specified herein in this Award Term clause are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this Contract. This Award Term clause does not confer any other rights or remedies to the Contractor other than those specified in this Award Term clause.

H-15 PERFORMANCE INCENTIVES

(a) The NNSA shall, at the conclusion of each specified appraisal period, evaluate the Contractor's performance for all Performance Incentive requirements. Performance incentives shall include multi-site performance objectives across the Nuclear Weapons Complex with measurable performance outcomes on those areas of strategic value to NNSA.

(b) The Performance Incentive Fee determination will be made in accordance with the Performance Evaluation Plan. The determination as to the amount of Performance Incentive Fee earned is a unilateral determination made by the Fee Determining Official.

(c) The Contracting Officer will issue the Fee Determination Official's final total Performance Incentive Fee amount earned determination, and the basis of the Performance Incentive Fee determination, in accordance with: the schedule set

forth in the Performance Evaluation Plan; or as otherwise set forth in this Contract. However, a determination must be made within sixty calendar days after the receipt by the Contracting Officer of the Contractor's self-assessment report, or a longer period if the Contractor and Contracting Officer agree. If the Contracting Officer evaluates the Contractor's performance of specific requirements on their completion, the payment of any earned fee amount must be made within seventy calendar days (or such other time period as mutually agreed to between the Contracting Officer and the Contractor) after such completion. If the determination is delayed beyond that date, the Contractor shall be entitled to interest on the determined total available fee amount earned at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the payment date. This rate is referred to as the "Renegotiation Board Interest Rate," and is published in the Federal Register semiannually on or about January 1 and July 1. The interest on any late total available fee amount earned determination will accrue daily and be compounded in 30-day increments inclusive from the first day after the schedule determination date through the actual date the determination is issued. That is, interest accrued at the end of any 30-day period will be added to the determined amount of fee earned and be subject to interest if not paid in the succeeding 30-day period.

(d) Performance Incentive Fee not earned during the evaluation period shall not be allocated to future evaluation periods.

H-16 NNSA DIRECT CONTRACTS

(a) The Contracting Officer may identify any of the work identified or in support of the Contract's Section J Appendix entitled "Statement of Work" to be performed either by another contractor directly contracted by the NNSA or by Government employees. The Contractor agrees to fully cooperate with such other contractors and Government employees, carefully fit its own work to such other work as may be directed by the Contracting Officer, and provide reasonable support as required. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Government employees. For work identified for performance by another contractor directly contracted by the NNSA:

(1) The Government and the Contractor will confer in advance on the strategy for changing responsibility for the work and will do so with the objective of minimum disruption to the site operations.

(2) The Government may designate the Contractor as the Technical Monitor for such contracts that are directly related to the scope of this Contract. The Contractor agrees to perform such monitoring duties as shall be further described in the designation for each such contract. No

designation shall include, and the Contactor shall not perform, the following duties:

(i) Award, modification, change, or termination of the contract.

(ii) Receipt, processing or adjudication of any claims, invoices, or demands for payment of any form.

(iii) Any function determined to be inherently governmental.

(3) The Technical Monitor shall report to the Contracting Officer, or the Contracting Officer's Representative, any performance of a designated contract that may not be in compliance with its terms and conditions but is not authorized to take any other action regarding such noncompliance.

(4) Additionally, the NNSA may insert provisions in such contracts substantially as follows:

H-___. TECHNICAL MONITOR

The Government may designate the Lawrence Livermore National Laboratory Management and Operating Contractor as Technical Monitor for any right, duty or interest in this contract. In that event, the contractor further agrees to fully cooperate with the Lawrence Livermore National Laboratory Management and Operating Contractor for all matters under the terms of the designation.

(b) Appropriate adjustments shall be made to the Contractor's Subcontracting Plan to recognize the changes to the subcontracting base and goals.

H-17 CONTRACTOR EMPLOYEES

In carrying out the work under this Contract, the Contractor shall be responsible for the employment of all professional, technical, skilled, and unskilled personnel engaged by the Contractor in the work hereunder, and for the training of personnel. Persons employed by the Contractor shall be and remain employees of the Contractor and shall not be deemed employees of the NNSA or the Government; however, nothing herein shall require the establishment of any employer-employee relationship between the Contractor and consultants or others whose services are utilized by the Contractor for the work hereunder.

H-18 REPRESENTATIONS AND CERTIFICATIONS

The Representations, Certifications, and Other Statements of Offeror as completed by the Contractor are hereby incorporated in this Contract by reference.

H-19 MODIFICATION AUTHORITY

Notwithstanding any of the other provisions of this Contract, a Contracting Officer shall be the only individual on behalf of the Government to:

(a) Accept nonconforming work;

(b) Waive any requirement of this Contract; or

(c) Modify any term or condition of this Contract.

H-20 PRIVACY ACT SYSTEMS OF RECORDS

The Contractor shall design, develop, or operate the following systems of records on individuals to accomplish an agency function pursuant to the Contract's Section I Clause entitled "Privacy Act."

DOE System No.	Title
DOE-33	Personnel Medical Records
DOE-35	Personnel Radiation Exposure Records

The above list shall be revised from time to time by mutual agreement between the Contractor and the Contracting Officer as may be necessary to keep it current. Such changes need not be formally incorporated before the annual Contract update modification, but shall have the same effect as if actually listed above for the purpose of satisfying the listing requirement contained in Paragraph (a)(1) of the Contract's Section I Clause entitled "Privacy Act."

H-21 FLOWDOWN OF RIGHTS TO PROPOSAL DATA

The Contractor shall include the clause of FAR 52.227-23 "Rights to Proposal Data (Technical)" in any subcontract awarded based on consideration of a technical proposal.

H-22 CONTINUATION OF PREDECESSOR CONTRACTOR'S OBLIGATIONS

On October 1, 2007, the Contractor shall assume responsibility and will continue to perform any existing agreements and regulatory obligations entered into under Contract No. W-7405-ENG-48,by the predecessor contractor. These agreements and regulatory obligations include all (a) subcontracts and purchase orders; (b) agreements with domestic and foreign research organizations; (c) agreements with universities and colleges; (d) agreements with Federal, municipalities and state regulatory agencies; (e) operating permits and licenses; and (f) any other agreements in effect prior to October 1, 2007.

H-23 SEPARATE CORPORATE ENTITY AND PERFORMANCE GUARANTEE

(a) The work performed under this Contract by the Contractor shall be conducted by a separate corporate entity from its Parent Organizations. The separate corporate entity must be set up solely to perform this Contract and shall be totally responsible for all Contract activities.

(b) The Contractor's Parent Organizations shall each guarantee performance of the Contract as evidenced by a performance guarantee. The performance guarantee is set forth in the Contract's Section J Appendix entitled "Performance Guarantee."

(c) In the event any of the signatories to the performance guarantee enters into proceedings related to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

H-24 SPECIAL HAZARDS

(a) The performance of the Contractor's operations hereunder may, in extraordinary circumstances, subject workers to special hazards for which workers' compensation laws, other statutes, the Contractor's welfare plan and policies, or the worker's private insurance may not provide adequate financial protection to the worker in the event of disability, or to the worker's estate in the event of death.

(b) Definitions.

(1) "Worker" as used in this clause shall mean any person who is or has been employed by the Contractor or any subcontractor, or who is or has been engaged as a consultant or borrowed personnel by the Contractor or any subcontractor.

(2) "Within the course and scope of employment" as used in this clause shall mean that the worker was performing duties as assigned, in conformance with the direction of the Contractor or a subcontractor or an agreement with the Contractor, and in furtherance of the work under this Contract.

(c) The Contractor is authorized to pay to a worker, or in the event of the worker's death, the worker's estate, a sum in an amount which the Contractor determines appropriate, not to exceed the worker's annual salary, whenever–

(1) The Contractor believes that a worker has become disabled or has died as a result of any special hazard listed in paragraph (d) below to which the worker has been exposed within the course and scope of employment;

(2) The Contractor believes that Workers' Compensation laws, other statutes, the Contractor's welfare plan and policies, or the worker's private

insurance does not provide adequate financial protection under the particular circumstances of the worker's disability or death; and

(3) The Contracting Officer approves the payment.

(d) The special hazards referred to in paragraphs (a) and (c) above are:

(1) Exposure to radiant energy or emitted particles from radioactive materials or from high voltage sources or machines, including ingestion, inhalation or other bodily uptake of radioactive materials.

(2) Exposure to explosions due to atomic disintegrations or to explosions in the course of experimental work with or using high explosives or propellants, or to explosions arising in the course of field experimentation with nuclear propulsion systems.

(3) Exposure to toxic materials comprising polonium, uranium, plutonium, tritium, fluorine, barium, cadmium, beryllium, any compounds of these, phosgene, or any other material in use in the course of authorized work which may be shown to have toxic effects.

(4) Work assignments not specifically covered in this clause and of such a nature as will invalidate the worker's personal insurance otherwise applicable to the injury or death and in effect at the time of performance of the assigned duties.

(5) Exposure to hazards incident to flights in military aircraft in the course of which necessary experimental work is conducted. Where a release of liability has been signed, such release will in no way bar the worker from receiving any payment under this clause.

(6) Exposure due to hazards from the fall of bombs or mockups from planes as opposed to hazards due to explosion.

(7) Exposure in the course of employment incident to flights in chartered or military aircraft or transportation on military vessels. Where a release of liability has been signed, such release will in no way bar the worker from receiving any payment under this clause.

(8) Exposure peculiar to and as the result of work assignment required to be conducted outside the continental United States.

(9) Such other exposures not now known but which may later be discovered and which by the nature thereof are similar to the exposure or hazards set forth above.

(10) Such other exposures may from time to time be agreed upon in writing by the Contractor and the Contracting Officer as a basis for payment.

(e) The total sum authorized to be paid under this clause to a worker or a worker's estate shall not exceed the worker's annual salary even where (1) a payment has been made to a worker on account of a disability and who thereafter dies as a result of the disabling injury or (2) a worker is disabled by one injury compensable under this clause and dies of a separate injury compensable under this clause. The Contractor assumes no obligation hereunder to make any payment from the Contractor's own funds. A release may be required from the payee if the Contracting Officer and the Contractor deem it necessary or appropriate.

(f) Whenever there is an injury or death which is compensable in accordance with paragraph (c) above, the Contractor may also, with Contracting Officer approval, pay for the cost of transportation (including hotel, subsistence and other incidental expenses) of the spouse and one or more of next of kin of such injured or dead worker from their respective homes to the place where such injured or dead worker shall be situated and their return.

H-25 DEFENSE AND INDEMNIFICATION OF EMPLOYEES

(a) The Parties recognize that the Contractor could be required to defend and indemnify its officers and employees from and against civil actions and other claims which arise out of the performance of work under this Contract. Except for defense costs made unallowable by the Contract's Section I Clause entitled "Payments and Advances", or the Major Fraud Act (41 U.S.C. §256(k)), the costs and expenses, including judgments, resulting from the defense and indemnification of employees from and against such civil actions and claims shall be allowable costs under this contract if incurred pursuant to the terms of the Contract's Section I Clause entitled "Insurance–Litigation and Claims".

(b) Costs and expenses, including judgments, resulting from the defense and indemnification of employees from civil fraud actions filed in federal court by the Government will be unallowable where the employee pleads nolo contendere or the action results in a judgment against the defendant.

(c) Where the Contractor determines under applicable law it must defend an employee in a criminal action which arises out of the performance of work under this Contract, NNSA will consider in good faith, on a case-by-case basis, whether the Contractor has such an obligation. If NNSA concurs, the costs and expenses, including judgments, resulting from the defense and indemnification of employees shall be allowable.

(d) The Contractor shall immediately furnish the Contracting Officer written notice of any such claim or civil action filed against any employee of the Contractor arising

out of the work under this contract together with copies of all pleadings filed. The Contractor shall furnish to the Contracting Officer a written determination by the Contractor's counsel that the defense or indemnity of the employee is required because the employee was acting within the course and scope of employment at the time of the acts or omissions which gave rise to the claim or civil action, and that any exclusions for fraud, corruption, or malice on the part of the employee do not apply. A copy of any Contractor letter asserting a reservation of rights with respect to the defense or indemnification of such employee shall also be provided to the Contracting Officer. The costs associated with the settlement of any such claim or civil action shall not be treated as an allowable cost unless approved in writing by the Contracting Officer.

H-26 PERFORMANCE OF WORK AT FACILITIES AND SITES OTHER THAN LAWRENCE LIVERMORE NATIONAL LABORATORY

In performance of the Contract's work at DOE or NNSA facilities and sites other than LLNL, the Contractor shall comply with applicable requirements set forth in this Contract's Appendix entitled "List of Applicable Directives," and any additional directives which have been established for the DOE/NNSA Prime Contractor at that DOE/NNSA facility/site that are applicable to the Contractor's work being performed and that are applicable to the associated hazards at the particular facility or site.

H-27 OPEN COMPETITION AND LABOR RELATIONS UNDER MANAGEMENT AND OPERATING AND OTHER MAJOR FACILITIES CONTRACTS

"Labor organization," as used in this clause, shall have the same meaning it has in 42 U.S.C. 2000e(d).

(a) Unless acting in the capacity of a constructor on a particular project, the Contractor shall not -

(1) Require bidders, offerors, contractors, or subcontractors to enter into or adhere to nor prohibit those parties from entering into or adhering to agreements with one or more labor organizations, i.e., project labor agreements, that apply to construction project(s) relating to this Contract; or

(2) Otherwise discriminate against bidders, offerors, contractors, or subcontractors for refusing to become or to remain signatories or to otherwise adhere to project labor agreements for construction project(s) relating to this Contract.

(b) When the Contractor is acting in the capacity of a constructor, i.e., performing a substantial portion of the construction with its own forces, it may use its discretion to require bidders, offerors, contractors, or subcontractors to enter into

a project labor agreement that the Contractor has negotiated for that individual project.

(c) Nothing in this clause shall limit the right of bidders, offerors, contractors, or subcontractors to voluntarily enter into a project labor agreements.

H-28 THIRD PARTIES

Nothing contained in this Contract or its modifications shall be construed to grant, vest, or create any rights in any person not a party to this Contract. This clause is not intended to limit or impair the rights which any person may have under applicable Federal Statutes.

H-29 ADVANCE UNDERSTANDING REGARDING ADDITIONAL ITEMS OF ALLOWABLE AND UNALLOWABLE COSTS AND OTHER MATTERS

Allowable costs under this Contract shall be determined according to the requirements of the Contract's Section I clause entitled "Payments and Advances." For purposes of effective Contract implementation, certain items of cost are being specifically identified below as allowable and/or unallowable under this Contract to the extent indicated:

(a) ITEMS OF ALLOWABLE COSTS:

(1) Personnel costs in accordance with Appendix A attached to this Contract.

(2) Expenditures by the Contractor to reimburse other employers for payments (including, but not limited to, salaries) to or for the benefit of their employees loaned to the Contractor for and engaged in the performance of the Contractor's undertaking hereunder.

(3) Costs incurred or expenditures made by the Contractor, as directed, approved or ratified by the Contracting Officer and not unallowable under any other provisions of this Contract.

(4) Those reasonable indirect costs that are allocable to the direct costs incurred for NNSA Livermore Site Office space within the Laboratory site, including laboratory services and parking, and which indirect costs benefit the NNSA Livermore Site Office.

(b) ITEMS OF UNALLOWABLE COSTS:

(1) Premium Pay for wearing radiation-measuring devices for Laboratory and all-tier cost-type subcontract employees.

(2) Home office expenses, whether direct or indirect, relating to activities of the Contractor, except as otherwise specifically provided in the Contract or specifically agreed to in writing by the Contracting Officer.

(3) Facilities capital cost of money for the Contractor including its "teaming arrangement" as defined in FAR 9.601.

(4) Meals and catering services, except as otherwise specifically agreed to in writing by the Contracting Officer. (Add via Amendment 002)

H-30 SERVICE CONTRACT ACT OF 1965 (41 U.S.C. 351)

The Service Contract Act of 1965 is not applicable to this contract. However, in accordance with the Contract's Section I Clause entitled "Contractor Purchasing System", subcontracts awarded by the Contractor are subject to the Act to the same extent and under the same conditions as contracts awarded by NNSA. The Contractor and the Contracting Officer shall develop a procedure whereby NNSA will determine if the Service Contract Act is applicable to particular subcontracts. In cases determined to be covered by the Service Contract Act, the Contractor shall prepare SF-98 and 98A "Notice of Intention to Make a Service Contract" and forward it to the Contracting Officer or his designee to obtain a wage determination.

H-31 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 noncommercial 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 that exceeds or may exceed $10,000.00 and is subject to the Walsh-Healy Public Contracts Act, as amended (41 U.S.C. 35-45), there are hereby incorporated by reference all stipulations required by said Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50), such stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor that are now or may hereafter be in effect."

H-32 CONTRACTOR ACCEPTANCE OF NOTICES OF VIOLATIONS OR ALLEGED VIOLATIONS, FINES, AND PENALTIES

(a) The Contractor shall accept, in its own name, service of notices of violations or alleged violations (NOVs/NOAVs) issued by Federal or State regulators to the Contractor resulting from the Contractor's performance of work under this contract, without regard to liability. The allowability of the costs associated with fines and penalties shall be subject to other provisions of this Contract.

(b) The Contractor shall notify the Contracting Officer promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties.

H-33 WORKERS' COMPENSATION

(a) The Contractor shall maintain workers compensation insurance coverage pursuant to the requirements of FAR 28.307-2, FAR 28.308 and DEAR 970.2803-1. The insurance program must be approved by the Contracting Officer and cover all eligible employees of the Contractor and comply with applicable Federal and State workers' compensation and occupational disease statutes.

(b) The Contractor shall obtain a service-type insurance policy that endorses the Department of Energy Incurred Loss Retrospective Rating Insurance Plan unless the Contracting Officer approves a different arrangement.

(c) The Contractor shall submit to the Contracting Officer an annual evaluation and analysis of workers' compensation cost as a percent of payroll in comparison with the percentage of payroll cost reported by a nationally recognized Cost of Risk Survey that has been pre-approved by the Contracting Officer. The Contractor's self evaluation shall discuss:

(1) periodic audits of claims servicing units; and,

(2) the reasonableness of self-insurance reserves and methods and assumptions used to closeout claims or losses to present value.

(d) The Contractor shall obtain approval from the Contracting Officer before making any significant change to its workers compensation coverage and will furnish reports as may be required from time to time by the Contracting Officer.

H-34 ADDITIONAL LABOR REQUIREMENTS

(a) The Davis Bacon Act is not applicable to this contract. However, in accordance with the Contract's Section I Clause entitled "Contractor Purchasing System", subcontracts awarded by the Contractor is subject to the Act to the same extent and under the same conditions as contracts awarded by NNSA. The Contractor and the Contracting Officer will develop a procedure whereby NNSA will determine if the Davis Bacon Act is applicable to particular subcontracts. The Contractor shall conduct payroll and job-site audits and conduct investigations of complaints as authorized by NNSA on all Davis Bacon activity, including any subcontracts, as may be necessary to determine compliance with the Davis-Bacon Act. Where violations are found, the Contractor shall report them to the Contracting Officer. The Contracting Officer may require that the Contractor assist in the determination of the amount of restitution and withholding of funds from a subcontractor so that sufficient funds are withheld to provide restitution for back wages due for workers inappropriately classified and paid, fringe benefits

owed, overtime payments due, and liquidated damages assessed. The Contractor shall furnish a Davis-Bacon Semi-Annual Enforcement Report to NNSA by April 21st and October 21st each year.

(b) The Contractor shall notify the Contracting Officer of any complaints and significant labor standards violations whether caused by the Contractor or subcontractors. The Contractor shall assist NNSA and or/the Department of Labor in the investigation of any alleged violations or disputes involving Federal labor standards.

H-35 WORKFORCE TRANSITION, CONTRACTOR COMPENSATION, BENEFITS AND PENSION (Mod M042, 196)

(a) Personnel Appendix

(1) This Clause and the Contract Section J Appendix entitled "Personnel Appendix" are adopted for the exclusive benefit and convenience of the Parties hereto; nothing contained herein shall be construed as conferring any right of action or any other right or benefit upon past, present, or future employees of the Contractor, or upon any other third party. This Clause and the Personnel Appendix reflect NNSA's minimum Contractor human resources requirements. Changes, if any, will be made to the Personnel Appendix through a Contract Modification. Personnel costs and related expenses incurred in accordance with the Personnel Appendix shall be allowable to the extent indicated therein.

(2) Definitions

(i) "Transferring Employees" are those employees (other than Inactive Vested Transferring Employees as defined below) who transfer from employment with the predecessor contractor to employment with the Contractor as of the start of the first day of the Basic Term of the Contract.

(ii) "Inactive Vested Transferring Employees" are those employees who transfer from employment with the predecessor contractor to employment with the Contractor prior to the first day of the Basic Term of the Contract, who do not elect to retire under the University of California Retirement Plan (UCRP) as of the first day of the Basic Term of the Contract, and who remain vested participants as "inactive members" of the UCRP.

(iii) "UCRP Retiring Employees" are employees of the predecessor contractor who elect to retire under the UCRP prior to first day of the Basic Term of the Contract and who have the same rights with

respect to hiring and terms and conditions of employment as New Employees (as defined below).

(iv) "New Employees" are those employees hired by the Contractor on or after the first day of the Basic Term of the Contract who are not Transferring Employees or Inactive Vested Transferring Employees.

(b) Employee Retention

(1) Subject to the availability of funds, the Contractor shall offer employment to all employees of the predecessor contractor who as of the start of the Contract period of performance are in good standing and have LLNL "Career" or "Term" appointments as described in the LLNL Personnel Policies and Procedures Manual, except as set forth in subparagraph (b)(2) below. Subsequently, the Contractor shall exercise appropriate managerial judgment regarding employee retention and job assignments.

(2) The Contractor is not required to offer employment to those employees assigned to the predecessor contractor's key personnel positions. In addition, the Contractor is not required to offer employment to UCRP Retiring Employees. The Contractor may offer employment to these categories of employees at its sole discretion.

(c) Labor Relations

(1) The Contractor shall respect the right of employees to organize and to form, join, or assist labor organizations, to bargain collectively through their chosen labor representatives, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of these activities.

(2) The Contractor is authorized to enter into labor agreements and administer such agreements in accordance with their negotiated terms subject to the following requirements:

(i) The Contractor shall seek to maintain harmonious bargaining relationships that reflect a judicious expenditure of public funds, equitable resolution of disputes and effective and efficient bargaining relationships consistent with the requirements of FAR Subpart 22.1 as supplemented by DEAR Subpart 970.2201 and all applicable Federal and State labor laws.

(ii) The Contractor shall submit to the Contracting Officer for the purpose of reviewing the Contractor's bargaining objectives prior to negotiation of any collective bargaining agreement, extension or

revision thereto. During the collective bargaining process, the Contractor shall notify the Contracting Officer before submitting or agreeing to any collective bargaining proposal which could change costs under this Contract or which could involve other items of special interest to the Government. During the collective bargaining process, the Contractor shall obtain the approval of the Contracting Officer in advance before proposing or agreeing to changes in any pension or other benefit plans.

(iii) The Contractor shall notify the Contracting Officer in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practices, work stoppages, picketing, labor arbitrations and settlement agreements, and will discuss economic parameters for negotiations before the start of any labor negotiations.

(3) The Contractor will furnish reports concerning labor relations and collective bargaining as may be required from time to time by the Contracting Officer.

(d) Salary and Benefits

(1) Compensation Packages

(i) Transferring Employees (Not including Inactive Vested Transferring Employees)

(I) The Contractor shall provide a total compensation package for Transferring Employees (including for Safety Members, as defined in UCRP plan documents, who otherwise qualify as and choose to become Transferring Employees) that is substantially equivalent to that provided by the predecessor contractor as of the last day of the Transition Term of the Contract. The Contracting Officer in his/her sole discretion will determine substantial equivalency by comparing the Contractor's total compensation package with the benefits provided by the predecessor contractor; provided, however, that the Contractor's total compensation package must include UCRP age factors as a basis for determining compensation, substantially equivalent pension and other benefits, must maintain the base salaries of the Transferring Employees, and shall comply with the requirements of paragraph (e), pensions, set forth below.

(II) Transferring Employees shall carry over the length of service credit and vacation and sick leave balances accrued under the predecessor contract as of the date of transfer to the Contractor. Paragraph (d) (6) (iv below does not apply to evaluating the reasonableness of benefits for Transferring Employees. The Contractor shall consider amending benefits for Transferring Employees to be consistent with any changes made by the Board of Regents of the University of California to employee benefits during the term of this Contract.

(III) The retiree medical benefit plan for Transferring Employees must include service based eligibility requirements substantially equivalent to existing requirements for retiree medical benefits under the predecessor contract that specify a minimum of 5 years continuous service under a DOE Contract(s) immediately prior to retirement in order to qualify for retiree medical benefit coverage. DOE Contract means for purposes of this paragraph: (1) a DOE management and operating contract, or (2) any other contract where work had been previously performed under a DOE management and operating contract and the successor Contractor is (a) required to employ all or part of the former Contractor's workforce and sponsors the employee pension and benefit plans; or (b) retains sponsorship of benefit plans that survive performance of the contract work scope. Contracts in this latter category include, but are not limited to, environmental remediation, infrastructure services and other site-specific project completion contracts.

(ii) New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees.

(I) For New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees, the Contractor shall provide a total compensation package that is market-based and that will allow the Laboratory to recruit and retain critical scientific, technical, and engineering skills to develop the next generation of scientific personnel necessary to successfully carry out its mission. In addition, any total compensation package shall comply with the requirements of paragraph (e), pensions, as set forth below. Cost reimbursement of benefit plans will be consistent with the approved "Relative Benefits Value Index (RBVI)" and "Per Capita Employee Benefit Cost Comparison (Cost

Comparison)" as described below in paragraphs (d)(6)(i-iv).

(II) Inactive Vested Transferring Employees shall carry over length of service credit for calculation of retiree medical benefits, for calculation of the rates of accrual of vacation and sick leave, for calculation of severance pay (subject to paragraph (d)(3) below); and for determination of eligibility to participate in a defined contribution pension plan, and the calculation of benefits under any defined contribution plan, if the Contractor offer such plans. However, Inactive Vested Transferring Employees who retire under UCRP and opt for a lump sum distribution of pension benefits shall not be eligible to receive retiree medical benefits under the Contract based on their years of service with the predecessor contractor. In addition, Inactive Vested Transferring Employees shall carry over vacation and sick leave balances accrued under the predecessor contract as of the date an employee transfers to employment with the Contractor. When an employee has opted to receive payment or service credit from the predecessor contractor for some or all of the accrued vacation and/or sick leave, only the balances for which the employee did not receive benefit from the predecessor contractor shall carry over to the Contract.

(iii) The total compensation packages described in subparagraphs (i) and (ii) above are subject to the Contracting Officer's review and approval.

(2) Wages and Salaries

(i) The Contractor shall develop, implement and maintain formal policies, practices and procedures to be used in the administration of its compensation system including a compensation system self-assessment plan consistent with FAR 31.205-6 as supplemented by DEAR 970.3102-05-6, "Compensation for personal services," as applied to the NNSA-approved standards in the Personnel Appendix. The Contractor's compensation system shall be in accordance with FAR 31.205-6 as supplemented by DEAR 970.3102-05-6, fully documented, consistently applied, and acceptable to the Contracting Officer.

(ii) The Contractor shall submit the following to the Contracting Officer for approval in writing and in advance:

(I) Any additional compensation system self-assessment data requested by the Contracting Officer that may be needed to validate and approve the Contractor's compensation system.

(II) Any proposed major compensation program design changes prior to implementation.

(III) An Annual Compensation Increase Plan (CIP) 90 days prior to the beginning of each succeeding calendar year.

(IV) Individual compensation actions for those senior Contractor employees (e.g. for the Laboratory Director, Deputy Directors (if any), and senior managers who report directly to the Laboratory Director/Deputy Directors), identified by the Contracting Officer, including initial and proposed changes to base salary and payments under Contracting Officer-approved Executive Incentive Compensation Plan.

(A) For FY 2008, for Key Personnel, the Contracting Officer will approve one time salary increase requests due to recruitment or promotion actions up to 6 percent above the prior incumbent's reimbursed salary as of the date of contract award. No reimbursement above the limits specified will be allowed under the contract for FY 2008. For subsequent years, NNSA policy on contractor executive compensation will apply for Key Personnel

(B) Notwithstanding any other term or condition set forth in the Contract, the reimbursable compensation for each of the Contractor's Key Personnel, shall not exceed (i) $693,951 benchmark in effect at the time of Contract award (i.e., the Contract's effective date) or (ii) the revised benchmark amount, in any subsequent government fiscal year, as determined by the applicable Determination of Executive Compensation Benchmark Amount Pursuant to Section 39 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 435), as Amended, as required in FAR Subpart 31.205-6 "Compensation for Personal Services", paragraph (p) "Limitation on allowability of compensation for certain contractor personnel."

(V) Any proposed establishment of an incentive compensation plan (variable pay plan/pay-at-risk).

(iii) NNSA will conduct periodic appraisals of Contractor performance with respect to compensation system implementation. Such appraisals may be conducted by NNSA, by validation of Contractor self assessments of compensation system performance, a third party expert, or any other method directed by the Contracting Officer.

(3) Severance Pay

(i) Severance pay benefits will not be reimbursed under this Contract to an employee if the employee:

(I) Voluntarily separates, resigns or retires from employment,

(II) Is offered employment with a successor/replacement contractor,

(III) Is offered employment with the parent or an affiliated company of the Contractor, or

(IV) Is discharged for cause.

(ii) For all Transferring Employees and Inactive Vested Transferring Employees, the Contractor shall carry over the length of service credit accrued for eligibility for severance pay under service for the predecessor contractor as of the date of transfer to the Contractor. Service credit does not include any period of prior service at a DOE/NNSA facility for which severance pay has been previously paid.

(4) Reporting Requirements

The Contractor shall provide the following reports with respect to salary and benefits reimbursed under this Contract for all employees to the Contracting Officer:

(i) Annual Contractor Salary-Wage Increase Expenditure Reports to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure showing actual against approved CIP amounts.

(ii) Annual Reports of Contractor Expenditures for Employee Supplemental Compensation through the Department Workforce Information System (WFIS), compensation and benefits module.

(iii) Annual Self-Assessments of its total compensation packages.

(5) Allowability of Pension and Other Benefits Costs

Prior to changing any employee benefit, the Contractor shall obtain Contracting Officer approval in writing and in advance of the changes. No presumption of allowability associated with a change will exist unless approved by the Contracting Officer.

(6) Benefit Evaluations

(i) The Contractor shall submit to the Contracting Officer for approval an evaluation of the Contractor total employee benefit program reimbursed under this contract calculated separately for two groups, (1) Transferring Employees and (2) New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees based on two performance measures: a Relative Benefit Value Index (RBVI) due initially 6 weeks after the start of the Transition Term and a Per Capita Employee Benefit Cost Comparison (Cost Comparison) due initially one year after the start of the Basic Term of the Contract. Subsequently, an RBVI must be calculated every two years and the Cost Comparison performed annually. Failure to conduct either the RBVI or Cost Comparison on a timely basis may result in a determination of unallowable costs.

(ii) The RBVI shall be an actuarial calculation of the relative value of the benefit programs offered by the Contractor calculated separately for (1) Transferring Employees and (2) New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees and measured against the average value of benefit programs offered by at least 15 comparator companies and/or institutions that the Contractor competes against for recruitment and retention of employees, and that are approved in advance and in writing by the Contracting Officer as a bona fide comparator group. The Contractor shall submit for Contracting Officer approval the RBVI methodology.

(iii.) The Cost Comparison shall analyze the Contractor's average aggregate employee benefit costs on a per capita basis per full time equivalent for (1) Transferring Employees and (2) New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees. In addition, for New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees the Cost Comparison shall analyze aggregate employee benefit costs as a percent of the Employee payroll. All costs shall be compared to the findings of a nationally recognized survey approved in advance and in writing by the Contracting Officer.

(iv) Costs for a market-based Benefits Plan for New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees will be allowable when the Contractor's total benefit RBVI does not exceed the market average total benefit RBVI by more than five percent and the total benefit average per capita cost and percent of payroll do not exceed the market average total benefit per capita cost and percent of payroll by more than five percent.

(I) When the total RBVI and/or Cost Comparison exceed the comparator group by more than 5 percent, as required by the Contracting Officer, the Contractor shall submit for approval corrective action plans, including a timeline, to achieve a market average RBVI, average per capita cost and cost as a percent of payroll not to exceed the comparator group by more than 5 percent.

(II) When required by the Contracting Officer, the Contractor shall submit an analysis of any specific plan costs that exceed the market average RBVI, average per capita cost and cost as a percent of payroll, and a corrective action plan to achieve conformance with the 5 percent requirement set forth in subparagraph (iv) above.

(III) The Contractor shall implement corrective action plans determined to be reimbursable by the Contracting Officer that meet the requirements of subparagraph (iv) above.

(v) The Contractor shall annually submit a Report of Contractor Expenditures for Employee Supplemental Compensation.

(7) Service Credit for Parent Organization Members

For new employees hired directly from: (1) University of California, Bechtel, BWXT, and the Washington Group (collectively referred to as "LLNS Parent Companies") or (2) any company partially or fully owned by the University of California (excluding UC LLNL), Bechtel, BWXT, or the Washington Group (collectively referred to as "Affiliates of LLNS Parent Companies") -

(i) LLNS will credit the continuous or credited service date recognized by the LLNS Parent Companies or the Affiliates of LLNS Parent Companies from which the employees transfer for vacation accrual, sick leave accrual, eligibility for the TCP2 401K

savings plan, service awards, and eligibility for access-only retirement medical plans.

(ii) In addition to the above, LLNS will credit service for subsidized retiree medical and severance benefits as specified below, for prior work on Department of Energy, National Nuclear Security Administration, and Naval Reactors (collectively referred to as "DOE") Management & Operating (M&O) contracts and facility management contracts. These include current M&O and facility management contracts as well as prior DOE management and operating contracts where a successor contractor was required to employ all or part of the former contractor's workforce and sponsor the existing site employee pension and benefit plans, and DOE was reimbursing the contractor, as a direct cost, for employee pension and benefit plans.

(I) For determining eligibility and earned benefit level for LLNS subsidized retiree medical benefits, reimbursement of post-retirement health benefits is limited to employees who prior to retirement, worked at least the five previous years under DOE or NNSA M&O or facilities management cost reimbursement contracts and only for those periods of prior service when employer-subsidized post-retirement medical benefits were part of the employee's benefits package. Such service will be frozen upon transfer to LLNS.

(II) Service credit for severance pay does not include any period of prior service at a DOE/NNSA facility for which severance pay has been previously paid.

(e) Pension Plans

(1) The Contractor shall sponsor at least two site-specific separate pension plans that cover site employees, including any pension plan spun off by the predecessor contractor. The pension plans sponsored by the Contractor shall include: "Pension Plan One," which shall cover Transferring Employees (including those Safety Members of UCRP who otherwise qualify as and choose to become Transferring Employees) and not Inactive Vested Transferring Employees, and "Pension Plan Two," which shall cover New Employees, Inactive Vested Transferring Employees, and UCRP Retiring Employees hired by the Contractor.

(2) All Pension Plans shall meet the requirements of the Internal Revenue Code (IRC) and Employee Retirement Income Security Act of 1974 (ERISA), as applicable, and shall be distinct from any corporate or other

pension plan. Each pension plan shall cover only Contractor employees working under this Contract.

(3) (i) Pension Plan One. The Contractor shall consider amending Pension Plan One to be consistent with any changes made by the Board of Regents of the University of California to the UCRP during the term of this Contract. For Transferring Employees (including those Safety Members of UCRP who otherwise qualify as and choose to become Transferring Employees) and not Inactive Vested Transferring Employees, Pension Plan One shall include UCRP age factors, preserve accrued benefits and recognize service credit earned under the predecessor contractor's retirement plans including the UCRP.

(ii) Pension Plan Two. For New Employees, Inactive Vested Transferring Employees and UCRP Retiring Employees hired under this Contract, the Contractor shall provide a pension benefit package that is market-based (as defined in (d)(6)(iv) and competitive for the industry and which will allow the Contractor to recruit and retain the appropriate personnel to assure that LLNL continues to successfully carry out its mission.

(I) For Inactive Vested Transferring Employees, and Transferring Employees not vested in UCRP who choose to participate in Pension Plan Two prior to the end of the Transition Term, Pension Plan Two shall recognize service earned under the UCRP for purposes of determining eligibility for benefits and vesting and the level of employer contribution, but shall not otherwise recognize prior service for calculation of benefits under Pension Plan Two. The Transferring Employees not vested in UCRP who choose to participate in Pension Plan Two prior to the end of the Transition Term shall thereafter be subject to the provisions of the Contract which apply to Inactive Vested Transferring Employees.

(II) UCRP Retiring Employees hired under this Contract shall not receive credit under Pension Plan Two for service under the predecessor contract.

(4) Contractor policies, practices, and procedures used in the administration of pension plans shall be consistent with law and regulation.

(5) The Contractor shall obtain an independent audit annually of each pension plan, which provides the accounting details specified by ERISA Sections 103 and 104.

(6) In addition to the information required under paragraph (d) (6) above, prior to making any changes to a pension plan the Contractor shall submit the information required under subparagraphs (i) and (ii) below for approval in advance and in writing that the costs proposed to be incurred are consistent with the Contractor's pension plans and will be deemed allowable.

(i) For proposed changes to pension plans and pension plan funding, an analysis of the impact of any proposed changes on actuarial accrued liabilities and an analysis of relative benefit value and any other information of special interest to the Government.

(ii) For any proposed special programs (including, but not limited to, early retirement programs, window benefit programs, disability programs, plan-loan features, employee contribution refunds, asset reversions, or ancillary benefits), an analysis of the impact of special programs on the actuarial accrued liability of the pension plan, and on relative benefit value and cost, if applicable.

(iii) For any proposed special programs (including, but not limited to, early retirement programs) that augment or potentially augment in any way the benefit of any plan participant, a compelling reason ethat the proposal should be approved.

(7) For each pension plan, the Contractor shall provide the Contracting Officer with the following when filed with the IRS or within nine months of the last day of the current pension plan year, whichever occurs first:

(i) The actuarial valuation.

(ii) Copies of IRS form 5500 with schedules (10 days after filing with the IRS).

(iii) Copies of all forms in the 5300 series that document the establishment, amendment, termination, spin-off, or merger of a plan.

(8) The Contractor shall perform an annual assessment to evaluate the effectiveness of its pension plan investment management. The assessment shall include at a minimum: a review and analysis of pension plan investment objectives; the strategies employed to achieve those objectives; the methods used to monitor execution of those strategies and the achievement of the investment objectives; and a comparative analysis of the objectives and performance of other comparable pension plans. The Contractor shall also identify its plans, if any, for revising any aspect of its pension plan management based on the results of the review. A copy of

the pension plan performance assessment identified in this paragraph shall be provided to the Contracting Officer within 30 days of the completion of the assessment.

(9) The Contractor shall provide (1) written notice to the Contracting Officer of individuals transferring from non-LLNL operations (including but not limited to operations of parent or affiliated entities of the Contractor) to LLNL operations, and vice-versa, on a quarterly basis, and (2) any additional information as directed by the Contracting Officer.

(10) Pension Plan Terminations

(i) The Contractor shall not terminate any pension plan covering any site employee without at least 60 days notice to and the advance written approval of the Contracting Officer prior to the scheduled date of plan termination.

(ii) After all liabilities of the plan are satisfied, the Contractor shall return to NNSA an amount equaling the asset reversion from the plan termination and interest as determined pursuant to the Contract's Section I Clause entitled "Interest" that has accrued on that amount because of a delay in the payment to NNSA. The Contracting Officer and the Contractor will agree to a schedule of payments. The Contracting Officer shall determine the method of payment.

(iii) The amount of asset reversion and interest is subject to audit consistent with Contracting Officer direction.

(f) Contract Expiration or Termination with a Follow-on Management and Operating Contract

If the Contract expires, or is terminated and an award is made to a follow-on management and operating contractor, as a part of the transition to another entity and in accordance with Contracting Officer direction and applicable law the Contractor shall transfer sponsorship of site-specific pension and other benefit plans covering employees at the Laboratory to the follow-on management and operating contractor.

(g) Contract Expiration or Termination without a Follow-on Management and Operating Contract

If this Contract expires or terminates without a follow-on management and operating contract, notwithstanding any other obligations and requirements concerning expiration or termination under any other clause of this Contract,

including but not limited to the Contract's Section I Clause entitled "Termination," the following actions shall occur:

(1) The Contractor shall continue as plan sponsor of all existing pension and welfare benefit plans covering site personnel, with continuing responsibility for management and administration of the plans, as directed by the Contracting Officer in his/her sole discretion.

(2) The Contract may be extended as appropriate for purposes deemed necessary by the Contracting Officer for benefit continuation.

(3) Pension plan contributions, plan asset management and administration costs, PRB costs and other applicable costs will continue to be allowable and fully reimbursable consistent with the terms of this Contract and in accordance with the applicable law and otherwise as acceptable to the Contracting Officer.

(4) The Contracting Officer shall provide written direction regarding the provision of post-contract pension and other benefits as he/she deems necessary.

(h) Work Force Planning

The Contractor shall submit a work force plan to the Contracting Officer no later than 6 weeks after the start of the Contract Transition Term, for review and approval, with subsequent annual updates thereafter. The plan shall specifically address the issues set forth below:

(1) The current and future status of critical-skills and the strategy for the recruitment and/or retention of those skills.

(2) Development of appropriate incentives, including an incentive compensation strategy for "Key Personnel," other management personnel, and other employees, as appropriate.

(3) Documentation of a strategy for meeting the requirements identified in paragraph (e) "Pension Plans" above.

(4) A framework for providing pension and other benefits applicable to the transferring workforce, relative to those provided under the predecessor contract, and an investment strategy for the management of transferred assets.

(5) A plan to provide the opportunity for predecessor contractor employees, who are considering retirement, to discuss employment with the

Contractor during the transition period to enable the employees to decide whether to retire under the UCRP.

(i) Post Retirement Benefits

(1) The Contractor shall become the sponsor and be responsible for management and administration of a retiree medical benefit plan that will provide medical insurance benefits (including dental) substantially equivalent to those provided by the predecessor contractor to individuals who meet eligibility requirements under the plan and who retired from employment at LLNL with the predecessor contractor as of the first day of the Basic Term of the Contract. The Contracting Officer will determine substantial equivalency by comparing the Contractor's retiree medical benefit plan with the benefits provided by the predecessor contractor.

(2) The Contractor may change retiree medical benefits after contract execution. Changes shall be based on a comparison and analysis to industry practices. Prior to making any changes to retiree medical benefit plans, the Contractor should obtain Contracting Officer approval in writing and in advance of the changes. No presumption of allowability associated with a change will exist unless approved by the Contracting Officer.

(3) Unless required by Federal or State law, advance funding of PRBs, other than pensions, is not allowable.

(j) Scientist and Engineer Retiree Corps

(1) The Contractor shall facilitate the availability of retired scientists and engineers on a part-time basis to support the Department's nuclear weapons program (e.g., to support archiving technical information, to provide data/recollections not available in the active workforce in areas related to weapons disassembly and nuclear weapons testing, to assist with stockpile stewardship activities, and to train or mentor replacement scientists and engineers). This shall include maintaining a list of retirees, including an affirmation of their agreement to be members of the retiree corps and necessary identification information to ensure ready access to retired scientists and engineers who may be needed.

(2) Inclusion in the corps will not amend, abrogate, or affect any retirement annuity with regard to any DOE-imposed restrictions on such annuity.

H-36 INTELLECTUAL AND SCIENTIFIC FREEDOM

(a) The Parties recognize the importance of fostering an atmosphere at the Laboratory conducive to scientific inquiry and the development of new knowledge and creative and innovative ideas related to important national interests.

(b) The Parties further recognize that the free exchange of ideas among scientists and engineers at the Laboratory and colleagues at universities, colleges, and other laboratories or scientific facilities is vital to the success of the scientific, engineering, and technical work performed by Laboratory personnel.

(c) In order to further the goals of the Laboratory and the national interest, it is agreed by the Parties that the scientific and engineering personnel at the Laboratory shall be accorded the rights of publication or other dissemination of research, and participation in open debate and in scientific, educational, or professional meetings or conferences, subject to the limitations included in technology transfer agreements and such other limitations as may be required by the terms of this Contract. Nothing in this clause is intended to alter the obligations of the Parties to protect classified or unclassified controlled nuclear information as provided by law.

(d) Nothing in the Section I clause entitled "DEAR 952.204-75 Public Affairs" is intended to limit the rights of the Contractor or its employees to publicize and to accurately state the results of its scientific research.

H-37 CONFLICTS OF INTEREST COMPLIANCE PLAN

The Contractor shall submit a Conflicts of Interest (COI) Compliance Plan to the Contracting Officer for approval within 90 days after the award date of this Contract. The COI Compliance Plan shall address the Contractor's approach for adhering to the Section I Clause entitled "Organizational Conflicts of Interest – Alternate I" and describe its procedures for aggressively self-identifying and resolving both organizational and employee conflicts of interest. The overall purpose of the COI Compliance Plan is to demonstrate how the Contractor will assure that its operations meet the highest standards of ethical conduct, and how its assistance and advice are impartial and objective. The COI Compliance Plan shall specifically address:

(a) How actual or potential COI issues will be identified and either mitigated, resolved, or avoided during contract performance;

(b) How the Contractor will ensure its work force is aware of and complies with Organizational Conflicts of Interest and COI Compliance Plan requirements;

(c) How the Contractor will ensure that the activities of the Contractor's Parent Organization(s) and affiliated companies are consistent with its COI Compliance Plan; and

(d) How the Contractor will protect confidential, proprietary, or sensitive information.

H-38 LOBBYING RESTRICTIONS

The Contractor 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.

H-39 MENTOR-PROTÉGÉ PROGRAM

The Contractor shall establish a Mentor-Protégé Program to assist small businesses, firms certified under section 8(a) of the Small Business Act by SBA, other small disadvantaged businesses, women-owned small business, Historically Black Colleges and Universities and Minority Institutions, other minority institutions of higher learning and small business concerns owned and controlled by service disabled veterans in enhancing their business abilities at the Laboratory. The Contractor shall provide details of its Mentor-Protégé Program to the Contracting Officer for review and approval.

H-40 ADDITION AND ALTERATIONS TO IMPLEMENT EXECUTIVE ORDER 13423, STRENGTHENING FEDERAL ENVIRONMENTAL, ENERGY AND TRANSPORTATION MANAGEMENT AND ITS IMPLEMENTING INSTRUCTIONS (Mod M034)

This contract involves contractor operation of Government-owned facilities and/or vehicles and the provisions of Executive Order 13423 are applicable to the Contractor to the same extent they would be applicable if the Government were operating the facilities or vehicles. Information on the requirements of the Executive Order and its Implementing Instructions may be found at http://ofee.gov/Executive Order/Executive Order13423_main.asp . This requirement includes the Electronics Stewardship requirements of Implementing Instruction XII. When acquiring desktop or laptop computers and computer monitors, the Contractor shall acquire Electronic Product Environmental Assessment Tool registered products conforming to IEEE 1680-2006 Standard and ranked at least bronze, provided such products are life cycle cost efficient and meet applicable performance requirements. Information on EPEAT-registered computer products is available at www.epeat.net .

H-9999 WORK FUNDED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAR 2009) (Mod M081)

Work performed under this Contract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act). The Recovery Act's purposes are to stimulate the economy and to create

and retain jobs. The Recovery Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009.

To comply with the reporting requirements of Section 1512(c) of the Recovery Act and related Guidance, the Contractor shall segregate all costs associated with Recovery Act actions assigned and authorized under this Contract from those costs associated with all other work authorized under the terms of this Contract.

The Recovery Act funds can be used in conjunction with other funding as necessary to complete projects. However, the Contractor must ensure that the project contains the authorized Treasury Accounting Symbol (TAS) approved by the Contracting Officer to ensure linkage between procurement and financial data. The Contractor should issue separate contracts (if subcontracted) for the Recovery Act project tasks to ensure compliance with the tracking and reporting requirements of the Recovery Act and related Guidance. For projects funded by sources other than the Recovery Act, the Contractor should record the TAS and project number and assign separate tasks codes to ensure that the financial information in not co-mingled and to ensure the records allows a clear and auditable linkage between the projects, procurement and financial data, as prescribed in the Recovery Act.

The Government will develop the implementing instructions of the Recovery Act, particularly concerning the how and where for the new reporting requirements. The Contractor will be provided these details as they become available. The Contractor shall comply with all applicable requirements of the Recovery Act including those Recovery Act requirements contained in a Work Authorization. If the Contractor believes there is any inconsistency between the Recovery Act requirements contained in the Work Authorization and the Contract terms and conditions, the Contractor shall seek guidance from the Contracting Officer. The Contractor shall also advise the Contracting Officer if there are any Contract deliverables or Contract requirements that may need to be updated in order to comply with the Recovery Act.