

## **APPENDIX C**

### **SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT**

(Sample agreement, see Section H Clause entitled “Special Financial Institution Account Agreement”).)

**Applicable to the Operations of  
Thomas Jefferson National Accelerator Facility**

**SAMPLE  
SPECIAL FINANCIAL INSTITUTION ACCOUNT  
AGREEMENT FOR USE WITH THE CHECKS PAID LOC  
FINANCING ARRANGEMENT**

The agreement is entered into the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, between the UNITED STATES OF AMERICA (the Government), represented by the Department of Energy (DOE) Contracting Officer executing the agreement, \_\_\_\_\_ [Insert the name of the Contractor], a \_\_\_\_\_ [Insert the name of the State of incorporation] corporation (the Contractor), and \_\_\_\_\_, a financial institution operating under the laws of \_\_\_\_\_, located at \_\_\_\_\_ (the Financial Institution).

**RECITALS**

1. Under date of \_\_\_\_\_, 20\_\_\_, the Government and the Contractor entered into Contract No. \_\_\_\_\_, or a related supplemental agreement, providing for advance payments to the Contractor. A copy of the advance payment terms was furnished to the financial institution.
2. The contract or supplemental agreement requires amounts advanced to the Contractor be deposited separate from the Contractor's general or other funds, in a Special Account at a member bank of the Federal Reserve System, any "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation (12 U.S.C. 1811), or a credit union insured by the National Credit Union Administration. The parties agree to deposit the amounts with the Financial Institution, which meets the requirement.
3. The Special Account is designated "\_\_\_\_ [Insert the Contractor's name], \_\_\_\_ [Insert the name of the Government agency] Special Account."

**COVENANTS**

In consideration of the foregoing, and for other good and valuable considerations, the parties agree to the following conditions:

1. The Government has a lien on the credit balance in the account to secure the repayment of every advance payment made to the Contractor. The lien is paramount to any lien or claim of the Financial Institution regarding the account
2. The Financial Institution is bound by the terms of the contract relating to the deposit and withdrawal of funds in the Special Account and is unaccountable for the application of funds withdrawn from the account. The Financial Institution acts on written directions from the Contracting Officer, the administering office, or a duly authorized representative of either. The financial institution is unaccountable to any party to the agreement for any action complying with the written directions. Any written directions received by the Financial Institution through the Contracting Officer

on DOE stationery and purporting to be signed by, or by the direction of DOE or duly authorized representative, may be, as far as the rights, duties, and liabilities of the Financial Institution are concerned, considered as being properly issued and filed with the Financial Institution by DOE.

3. The Government, or the Government's authorized representatives, has access to the books and records maintained by the Financial Institution regarding the Special account at reasonable times and for reasonable purposes, including, the inspection or copying of the books and records and any and all pertinent memoranda, checks, correspondence, or documents. The financial institution preserves the books and records for a period of 6 years after the closing of the Special Account.
4. In the event of the service of any writ of attachment, levy of execution, or commencement of garnishment proceedings regarding the special account, the Financial Institution will promptly notify DOE at:

[Name of office]  
[Street address]  
[City]  
[State and Zip Code]

5. DOE authorizes funds to the extent obligations have been incurrent in good faith there under by the Contractor to the Financial Institution for the benefit of the special demand deposit account. The Financial Institution agrees to honor upon presentation for payment any payments issued by the Contractor and to restrict all withdrawals against the funds authorized to an amount sufficient to maintain the average daily balance in the special demand deposit account in a net positive and as close to zero as administratively possible.
6. The Financial Institution agrees to service the account based on the requirements and specifications contained in DOE solicitation No. \_\_\_\_\_, dated \_\_\_\_\_. The Financial Institution agrees per-item costs, detailed in the form "Schedule of Financial Institution Processing Charges," contained in the Financial Institution's aforesaid bid will remain constant during the term of the Agreement. The Financial Institution calculates the monthly fees based on services rendered and invoice the contractor.
7. The Financial Institution posts collateral in accordance with 31 CFR 202 with the Federal Reserve bank in an amount equal to the net balances in any of the accounts included in the Agreement, less the Treasury-approved deposit insurance.
8. The Agreement, with every provisions and covenants, is in effect for a term of \_\_\_\_\_ years, beginning on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and ending on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
9. DOE, the Contractor, or the Financial Institution may terminate the Agreement at any time within the agreement period upon providing written notification to the other

parties 90 days prior to the desired termination date. The specific provisions for operating the account during the 90-day period are contained in Covenant xx.

10. DOE or the Contractor may terminate the Agreement at any time upon 30 days' written notice to the Financial Institution if DOE or the Contractor, or both parties, find the Financial Institution has failed to substantially perform its obligations under the Agreement or the Financial Institution is performing obligations in a manner which precludes administering the program in an effective and efficient manner or precludes the effective utilization of the Government's cash resources.
11. Notwithstanding the provisions of Covenants 9 and 10, in the event the Agreement, referenced in Recital (a), between DOE and the Contractor is not renewed or is terminated, the Agreement between DOE, the Contractor, and the Financial Institution terminates automatically upon the delivery of written notice to the Financial Institution.
12. In the event of termination, the Financial Institution agrees to retain the Contractor's special demand deposit account for an additional 90-day period to clear outstanding payment items.

## TERMS

The Agreement continues to be in effect for the 90-day additional period, with exception of the following:

1. Term Agreement (Covenant 8)
2. Termination of Agreement (Covenant 9 and 10)

Terms and conditions of the aforesaid bid provided by the Financial Institution which are consistent with the 90-day additional term remains in effect for the period.

The Financial Institution has provided the forms entitled "Technical Representations and Certifications" and "Schedule of Financial Institution Processing Charges." The forms have been accepted by the Contractor and the Government and are incorporated herein with the document entitled "Financial Institution's Information on checks paid LOC Financing Arrangement" as an integral part of the Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement, which consists of \_\_\_\_\_ pages, including the signature pages, to be executed as of the day and year first above written.

\_\_\_\_\_  
Date Signed

By \_\_\_\_\_  
(Typed Name of Contractor Officer)

\_\_\_\_\_  
(Signature of Contracting Officer)

WITNESS

\_\_\_\_\_  
(Typed Name of Witness)

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Signature of Witness)

By \_\_\_\_\_  
(Name of Contractor's Representative)

Note: In the case of a corporation,  
a witness is unnecessary.

\_\_\_\_\_  
(Signature of Contractor's Representative)

(Title) \_\_\_\_\_

(Address) \_\_\_\_\_

(Date Signed) \_\_\_\_\_

\_\_\_\_\_  
(Typed Name of Witness)

\_\_\_\_\_  
(Name of Financial Institution)

\_\_\_\_\_  
(Name of Financial Institution Representative)

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Signature of Financial Institution Representative)

Note: In the case of a corporation,  
a witness is unnecessary.

(Title) \_\_\_\_\_

(Address) \_\_\_\_\_

(Date Signed) \_\_\_\_\_

NOTE

The contractor, if a corporation, causes the following Certificate to be executed under its corporate seal, provided the same officer does not execute both the Agreement and the Certificate.

CERTIFICATE

I, \_\_\_\_\_, certify I am the \_\_\_\_\_ of the corporation named as Contractor herein; \_\_\_\_\_, who signed this Agreement on behalf of the Contractor, was then \_\_\_\_\_ of said corporation and said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

\_\_\_\_\_  
(Corporate Seal) (Signature)

NOTE

Financial Institution, if a corporation, causes the following Certificate to be executed under its corporate seal, provided the same officer does not execute both the Agreement and the Certificate.

CERTIFICATE

I, \_\_\_\_\_, certify I am the \_\_\_\_\_ of the corporation named as Contractor herein; \_\_\_\_\_, who signed this Agreement on behalf of the Contractor, was then \_\_\_\_\_ of said corporation and said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

\_\_\_\_\_  
(Corporate Seal) (Signature)