PART II – CONTRACT CLAUSES

SECTION I

PART II - CONTRACT CLAUSES

SECTION I

TABLE OF CONTENTS

I.1. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) 7

I.2. FAR 52.202-1 DEFINITIONS (OCT 1995) (AS MODIFIED BY DEAR 952.202-1 DEFINITIONS (MAR 1995) 9

I.3. FAR 52.204-1 APPROVAL OF CONTRACT (DEC 1989) 12

I.4. FAR 52.225-5 BUY AMERICAN ACT - CONSTRUCTION MATERIALS (JUN 1997) 12

I.5. FAR 52.225-15 BUY AMERICAN ACT - CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS ACT AND NORTH AMERICAN FREE TRADE AGREEMENT (JUN 1997 15

I.6. FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCT 1998) 17

I.7. FAR 52.247-67 SUBMISSION OF COMMERCIAL TRANSPORTATION BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (JUN 1997). 18

I.8. FAR 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984) .. 20

I.9. DEAR 952.204-2 SECURITY (SEP 1997) (MODIFIED) 20

I.10. DEAR 952.204-70 CLASSIFICATION/DECLASSIFICATION (SEP 1997)21

I.11. DEAR 952.204-71 SENSITIVE FOREIGN NATIONS CONTROLS(APR 1994)... 23

I.12. DEAR 952.204-74 FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER CONTRACTOR (DEVIATION) (ACQUISITION LETTER 99-03)(APR 1999) 23

I.13. DEAR 952.208-7 TAGGING OF LEASED VEHICLES (APR 1984) 24

I.14. DEAR 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST (JUN 1997) 25

I.15. DEAR 952.217-70 ACQUISITION OF REAL PROPERTY (APR 1984) 28

I.16. DEAR 952.223-75 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (APR 1984) 28

I.17. DEAR 952.224-70 PAPERWORK REDUCTION ACT (APR 1994) 28

I.18. DEAR 952.226-74 DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997) 29

I.19. DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (JUN 1996) 29

I.20. DEAR 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS (JUN 1995) 34

I.21. DEAR 970.2701 (DOE-PR 9-9.110) REPORTING OF ROYALTIES..... 36

I.22. DEAR 970.2701 (DOE-PR 9-9.106) CLASSIFIED INVENTIONS..... 36

I.23. DEAR 970.5203-3 BUY AMERICAN ACT - SUPPLIES (JAN 1994)..... 37

I.24. DEAR 970.5204-1 (B) COUNTERINTELLIGENCE (SEP 1997)..... 38

I.25. DEAR 970.5204-2 INTEGRATION OF ENVIRONMENT, SAFETY, AND HEALTH INTO WORK PLANNING AND EXECUTION (JUN 1997)..... 38

I.26. DEAR 970.5204-9 ACCOUNTS, RECORDS, AND INSPECTION (MAY 2000).... 41

I.27. DEAR 970.5204-11 CHANGES (APR 1984)..... 43

I.28. DEAR 970.5204-12 CONTRACTOR'S ORGANIZATION (JUL 1994) 43

I.29. DEAR 970.5204-13 ALLOWABLE COSTS, BASE FEE AND PERFORMANCE FEE (MANAGEMENT AND OPERATING CONTRACTS) (MAY 2000) (MODIFIED) 44

I.30. DEAR 970.5204-15 OBLIGATION OF FUNDS (MAY 2000) 54

see alternate in new clause

I.31. DEAR 970.5204-16 PAYMENTS AND ADVANCES (MAY 2000) (MODIFIED).... 55

I.32. DEAR 970.5204-17 POLITICAL ACTIVITY COST PROHIBITION (MAR 1998) 59

I.33. DEAR 970.5204-19 PRINTING (APR 1984) 62

I.34. DEAR 970.5204-20 MANAGEMENT CONTROLS (AUG 1993)..... 62

I.35. DEAR 970.5204-21 PROPERTY (JUN 1997)..... 63

I.36. DEAR 970.5204-22 CONTRACTOR PURCHASING SYSTEM (NOV 1997)68

I.37. DEAR 970.5204-23 STATE AND LOCAL TAXES (APR 1984)..... 73

I.38. DEAR 970.5204-25 WORKMANSHIP AND MATERIALS (APR 1984)..... 74

I.39. DEAR 970.5204-27(B) CONSULTANT OR OTHER COMPARABLE EMPLOYMENT SERVICES (MAY 1989) 75

I.40. DEAR 970.5204-28 ASSIGNMENT (APR 1984) 75

I.41. DEAR 970.5204-29 PERMITS OR LICENSES (APR 1984) 75

I.42. DEAR 970.5204-31 INSURANCE, LITIGATION AND CLAIMS (JUN 1997)..... 75

I.43. DEAR 970.5204-33(A) PRIORITIES AND ALLOCATIONS (APR 1994).. 79

I.44. DEAR 970.5204-35 CONTROLS IN THE NATIONAL INTEREST (JUL 1994)... 79

I.45. DEAR 970.5204-38 GOVERNMENT FACILITY SUBCONTRACT APPROVAL (APR 1994)..... 79

I.46. DEAR 970.5204-39 ACQUISITION AND USE OF ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES (OCT 1995) DEVIATION (JUN 1999) 79

I.47. DEAR 970.5204-42 KEY PERSONNEL (APR 1984) 80

I.48. DEAR 970.5204-43 OTHER GOVERNMENT CONTRACTORS (APR 1994)..... 80

I.49. DEAR 970.5204-44 FLOWDOWN OF CONTRACT REQUIREMENTS TO SUBCONTRACTS (FEB 1997)[AS REVISED ON 7/30/97] 81

I.50. DEAR 970.5204-45 TERMINATION (OCT 1995) 83

I.51. DEAR 970.5204-54 TOTAL AVAILABLE FEE: BASE FEE AMOUNT AND PERFORMANCE FEE AMOUNT (APR 1999) ALTERNATE II (APR 1999)85

I.52. DEAR 970.5204-58 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (AUG 1992)..... 88

I.53. DEAR 970.5204-59 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (APR 1999)..... 89

I.54. DEAR 970.5204-60 FACILITIES MANAGEMENT (NOV 1997) 89

I.55. DEAR 970.5204-61 COST PROHIBITIONS RELATED TO LEGAL AND OTHER PROCEEDINGS (JUN 1997) 90

I.56. DEAR 970.5204-63 COLLECTIVE BARGAINING AGREEMENTS - MANAGEMENT AND OPERATING CONTRACTS (AUG 1993) 93

I.57. DEAR 970.5204-72 PATENT RIGHTS - PROFIT-MAKING MANAGEMENT AND OPERATING CONTRACTORS (FEB 1995) (AS MODIFIED BY DEAR 952.227-13) 94

I.58. DEAR 970.5204-73 NOTICE REGARDING OPTIONS (JUN 1996) 108

I.59. DEAR 970.5204-74 OPTION TO EXTEND THE TERM OF THE CONTRACT (JUN 1996) 108

I.60. DEAR 970.5204-75 PRE-EXISTING CONDITIONS (JUN 1997) ALTERNATE II (JUN 1997) 109

I.61. DEAR 970-5204-76 MAKE-OR-BUY PLAN (JUN 1997) 109

I.62. DEAR 970.5204-78 LAWS, REGULATIONS, AND DOE DIRECTIVES (JUN 1997) 112

I.63. DEAR 970.5204-79 ACCESS TO AND OWNERSHIP OF RECORDS (JUN 1997) 113

I.64. DEAR 970.5204-80 OVERTIME MANAGEMENT (JUN 1997) 115

I.65. DEAR 970.5204-81 DIVERSITY PLAN (DEC 1997) 116

I.66. DEAR 970.5204-85 REDUCTION OR SUSPENSION OF ADVANCE, PARTIAL, OR PROGRESS PAYMENTS (DEC 1997) 116

I.67. DEAR 970.5204-86 CONDITIONAL PAYMENT OF FEE, PROFIT, OR INCENTIVES (APR 1999) ALTERNATE I (APR 1999) (DEVIATION) 117

I.68. DEAR 970.5204-87 COST REDUCTION (APR 1999) 119

I.69. DEAR 970.5204-90 FINANCIAL MANAGEMENT SYSTEM (MAY 2000) 122

I.70. DEAR 970.5204-91 INTEGRATED ACCOUNTING (MAY 2000) 123

I.71. DEAR 970.5204-92 LIABILITY WITH RESPECT TO COST ACCOUNTING STANDARDS (MAY 2000) 123

I.72. DEAR 970.5204-93 WORK FOR OTHERS FUNDING AUTHORIZATION (MAY 2000) 123

I.73. DEAR 970.5204-XX7 PUBLIC AFFAIRS 124

I.74. DEAR 970.5204-XX8 TECHNICAL DIRECTION 125

I.75. DEAR 970.5204-XX9 PERFORMANCE IMPROVEMENT AND COLLABORATION 126

Note 1: The references cited herein are from the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1), the U.S. Department of Energy Acquisition Regulation (DEAR) (48 CFR Chapter 9), and the U.S. Department of Energy Procurement Regulations (DOE-PR) (41 CFR Chapter 9).

Note 2: Consistent with DEAR 970.5202, DEAR clauses indicated as "(Modified)" means that a minor change(s) in wording of the clause has been made for the purpose of clarification only and not with the intent of altering the meaning, intent, substance, or the principles expressed in the clause.

PART II

SECTION I

CONTRACT CLAUSES

I.1. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of the clause may be accessed electronically at this/these address(es):

Federal Acquisition Regulations – http://www.arnet.gov/far/

1. FAR 52.203-3 GRATUITIES (APR 1984)
2. FAR 52-203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)
3. FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)
4. FAR 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)
5. FAR 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
6. FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
7. FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)
8. FAR 52.204-4 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (JUN 1996)
9. FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)
10. FAR 52.215-8 OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)
11. FAR 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998)
12. FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)
13. FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 1999) ALTERNATE II (JAN 1999)
14. FAR 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)
15. FAR 52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM--DISADVANTAGED STATUS AND REPORTING (OCT 1999)

16. FAR 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)
17. FAR 52.222-3 CONVICT LABOR (AUG 1996)
18. FAR 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (JUL 1995)
19. FAR 52.222-6 DAVIS-BACON ACT (FEB 1995)
20. FAR 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)
21. FAR 52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)
22. FAR 52.222-9 APPRENTICES AND TRAINEES (FEB 1988)
23. FAR 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)
24. FAR 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (FEB 1988)
25. FAR 52.222-12 CONTRACT TERMINATION DEBARMENT (FEB 1988)
26. FAR 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)
27. FAR 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)
28. FAR 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)
29. FAR 52.222-16 APPROVAL OF WAGE RATES (FEB 1988)
30. FAR 52.222-17 LABOR STANDARDS FOR CONSTRUCTION WORK - FACILITIES CONTRACTS (FEB 1988)
31. FAR 52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT (DEC 1996)
32. FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
33. FAR 52.222-26 EQUAL OPPORTUNITY (FEB 1999)
34. FAR 52.222-35 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)
35. FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
36. FAR 52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)
37. FAR 52.223-2 CLEAN AIR AND WATER (APR 1984)
38. FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) ALTERNATE I (JUL 1995)
39. FAR 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)
40. FAR 52-223-12 REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995)
41. FAR 52-223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)
42. FAR 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)
43. FAR 52.224-2 PRIVACY ACT (APR 1984)
44. FAR 52.225-10 DUTY-FREE ENTRY (APR 1984)
45. FAR 52.225-11 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (AUG 1998)

appropriated funding. Anytime the actual funding varies plus or minus 10 percent of the requested funding level upon which the fee pool is based, as discussed in (7) above, a change to the fee pool amount and related requirements and/or milestone may be processed through the change control system to change the baseline with a subsequent change to the PEMP.

(c) Beyond the Control/Influence

There are certain instances when changes to program mission, milestones and/or requirements may be beyond the control/influence of either DOE or the Contractor. Changes which may fall into this category are litigation, lawsuits, and legislation. Some examples may include expanding the repository to include more fuel than currently defined in legislation, acceptance of fuel earlier than anticipated, changing the radiation standards, etc. Additionally, decision makers may or may not make timely decisions based on circumstances outside the control/influence of the contractor.

Examples of instances within the contractor's control or influence are quality and completeness of the documents submitted and quality, completeness and timeliness of the contractor's response to questions/concerns/issues with documents submitted.

B.4 AVAILABILITY OF APPROPRIATED FUNDS

Except as may be specifically provided to the contrary in Section I, Contract Clause DEAR 952.250-70, entitled, "Nuclear Hazards Indemnity Agreement," the duties and obligations of the Government hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the Congress, which the Department of Energy may legally spend for such purposes.