

PART I
SECTION I – CONTRACT CLAUSES

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 a clause may be accessed electronically at these address(es):

Federal Acquisition Regulations	www.arnet.gov
Department of Energy Acquisition Regulations	www.pr.doe.gov

The following FAR Clauses are incorporated by reference

- I.1 52.202-1 DEFINITIONS. (DEC 2001)
- I.2 52.203-3 GRATUITIES. (APR 1984)
- I.3 52.203-5 COVENANT AGAINST CONTINGENT FEES. (APR 1984)
- I.4 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT. (JUL 1995)
- I.5 52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)
- I.6 52.203-8 CANCELLATION, RECISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)
- I.7 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)
- I.8 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (JUN 1997)
- I.9 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER. (AUG 2000)

- I.10 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT. (JUL 1995)
- I.11 52.215-2 AUDIT AND RECORDS - NEGOTIATION. (JUN 1999)
- I.12 52.215-8 ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT. (OCT 1997)
- I.13 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA. (OCT 1997)
- I.14 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-MODIFICATIONS. (OCT 1997)
- I.15 52.215-12 SUBCONTRACTOR COST OR PRICING DATA. (OCT 1997)
- I.16 52.215-13 SUBCONTRACTOR COST OR PRICING DATA-MODIFICATIONS. (OCT 1997)
- I.17 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS. (DEC 1998)
- I.18 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY. (OCT 1997)
- I.19 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS. (OCT 1997)
- I.20 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES. (OCT 1997)
- I.21 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA--MODIFICATIONS. (OCT 1997) AND ALTERNATE III. (OCT 1997)
- I.22 52.216-7 ALLOWABLE COST AND PAYMENT. (DEC 2002)
- I.23 52.216-10 INCENTIVE FEE. (MAR 1997)
- I.24 52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JUL 1996)
- I.25 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS. (OCT 2000)

- I.26 52.219-14 LIMITATIONS ON SUBCONTRACTING. (DEC 1996)
- I.27 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES. (FEB 1997)
- I.28 52.222-3 CONVICT LABOR. (AUG 1996)
- I.29 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION. (SEP 2000)
- I.30 52.222-6 DAVIS-BACON ACT. (FEB 1995)
- I.31 52.222-7 WITHHOLDING OF FUNDS. (FEB 1988)
- I.32 52.222-8 PAYROLLS AND BASIC RECORDS. (FEB 1988)
- I.33 52.222-9 APPRENTICES AND TRAINEES. (FEB 1988)
- I.34 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS. (FEB 1988)
- I.35 52.222-11 SUBCONTRACTS (LABOR STANDARDS). (FEB 1988)
- I.36 52.222-12 CONTRACT TERMINATION - DEBARMENT. (FEB 1988)
- I.37 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS. (FEB 1988)
- I.38 52.222-14 DISPUTES CONCERNING LABOR STANDARDS. (FEB 1988)
- I.39 52.222-15 CERTIFICATION OF ELIGIBILITY. (FEB 1988)
- I.40 52.222-21 PROHIBITION OF SEGREGATED FACILITIES. (FEB 1999)
- I.41 52.222-26 EQUAL OPPORTUNITY. (APR 2002)
- I.42 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (DEC 2001)
- I.43 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES. (JUN 1998)

- I.44 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (DEC 2001)
- I.45 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED. (MAY 1989)
- I.46 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES. (MAY 1989)
- I.47 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA. (JAN 1997) AND ALTERNATE I (JUL 1995)
- I.48 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION. (APR 1998)
- I.49 52.223-6 DRUG-FREE WORKPLACE. (MAR 2001)
- I.50 52.223-7 NOTICE OF RADIOACTIVE MATERIALS. (JAN 1997)
- I.51 52.223-11 OZONE-DEPLETING SUBSTANCES. (MAY 2001)
- I.52 52.223-12 REFRIGERATION EQUIPMENT AND AIR CONDITIONERS. (MAY 1995)
- I.53 52.223-14 TOXIC CHEMICAL RELEASE REPORTING. (OCT 2000)
- I.54 52.224-1 PRIVACY ACT NOTIFICATION. (APR 1984)
- I.55 52.224-2 PRIVACY ACT. (APR 1984)
- I.56 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES. (JUL 2000)
- I.57 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL). (JUNE 1987)
- I.58 52.230-2 COST ACCOUNTING STANDARDS. (APR 1998)
- I.59 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999)
- I.60 52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS. (APR 1984)
- I.61 52.232-17 INTEREST. (JUN 1996)

- I.62 52.232-18 AVAILABILITY OF FUNDS. (APR 1984)
- I.63 52.232-22 LIMITATION OF FUNDS. (APR 1984)
- I.64 52.232-23 ASSIGNMENT OF CLAIMS. JAN 1986)
- I.65 52.232-25 PROMPT PAYMENT. (FEB 2002)
- I.66 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER-OTHER THAN CENTRAL CONTRACTOR REGISTRATION. (MAY 1999)
- I.67 52.233-1 DISPUTES. (JUL 2002)
- I.68 52.233-3 PROTEST AFTER AWARD. (AUG 1996) AND ALTERNATE I (JUN 1985)
- I.69 52.237-3 CONTINUITY OF SERVICES. (JAN 1991)
- I.70 52.239-1 PRIVACY OR SECURITY SAFEGUARDS. (AUG 1996)
- I.71 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS. (APR 1984)
- I.72 52.242-3 PENALTIES FOR UNALLOWABLE COSTS. (MAR 2001)
- I.73 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS. (JAN 1997)
- I.74 52.242-13 BANKRUPTCY. (JUL 1995)
- I.75 52.243-2 CHANGES – COST REIMBURSEMENT. (AUG 1987) AND ALTERNATE 1 (APR 1984)
- I.76 52.243-6 CHANGE ORDER ACCOUNTING. (APR 1984)
- I.77 52.243-7 NOTIFICATION OF CHANGES. (APR 1984)
- I.78 52.244-2 SUBCONTRACTS. (AUG 1998)
- I.79 52.244-5 COMPETITION IN SUBCONTRACTING. (DEC 1996)
- I.80 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS. (APRIL 2003)

- I.81 52.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS). (JAN 1986)
- I.82 52.245-19 GOVERNMENT PROPERTY FURNISHED "AS IS." (APR 1984)
- I.83 52.246-25 LIMITATION OF LIABILITY--SERVICES. (FEB 1997)
- I.84 52.247-1 COMMERCIAL BILL OF LADING NOTATIONS. (APR 1984)
- I.85 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS. (JAN 1997)
- I.86 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. – FLAG COMMERCIAL VESSELS. (APR 2003)
- I.87 52.249-6 TERMINATION (COST-REIMBURSEMENT). (SEP 1996)
- I.88 52.249-14 EXCUSABLE DELAYS. (APR 1984)
- I.89 52.251-1 GOVERNMENT SUPPLY SOURCES. (APR 1984)
- I.90 52.251-2 INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES. (JAN 1991)
- I.91 52.252-2 CLAUSES INCORPORATED BY REFERENCE. (FEB 1998)
- I.92 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES. (APR 1984)
- I.93 52.253-1 COMPUTER GENERATED FORMS. (JAN 1991)

The following DEAR Clauses are incorporated by reference

- I.94 952.202-1 DEFINITIONS. (MAR 2002)
- I.95 952.204-2 SECURITY. (MAY 2002)
- I.96 952.204-70 CLASSIFICATION/DECLASSIFICATION. (SEP 1997)
- I.97 952.204-71 SENSITIVE FOREIGN NATIONS CONTROLS. (APR 1994)
- I.98 952.204-75 PUBLIC AFFAIRS. (DEC 2000)
- I.99 952.208-7 TAGGING OF LEASED VEHICLES. (APR 1984)

- I.100 952.208-70 PRINTING. (APR 1984)
- I.101 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST. (JUN 1997) AND ALTERNATE I. (JUN 1997)
- I.102 952.215-70 KEY PERSONNEL. (DEC 2000)
- I.103 952.217-70 ACQUISITION OF REAL PROPERTY. (APR 1984)
- I.104 952.224-70 PAPERWORK REDUCTION ACT. (APR 1994)
- I.105 952.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS).
- I.106 952.247-70 FOREIGN TRAVEL. (DEC 2000)
- I.107 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT. (JUN 1996)
- I.108 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS. (DEC 2000)
- I.109 970.5204-2 LAWS, REGULATIONS, AND DOE DIRECTIVES. (DEC 2000)
- I.110 52.227-1 AUTHORIZATION AND CONSENT. (JUL 1995)
- I.111 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT. (AUG 1996)
- I.112 52.227-3 PATENT INDEMNITY SUBCONTRACTS. (APR 1984)
- I.113 52.227-6 ROYALTY INFORMATION. (APR 1984)
- I.114 52.227-14 RIGHTS IN DATA – GENERAL. (JUN 1987) AND ALT II (JUN 1987), ALT III JUN 1987), ALTERNATE V (JUN 1987)
- I.115 52.227-16 ADDITIONAL DATA REQUIREMENTS. (JUNE 1987)
- I.116 952.227-9 REFUND OF ROYALTIES. (DEC 2000)
- I.117 952.227-11 PATENT RIGHTS – RETENTION BY CONTRACTOR (SHORTFORM). (MAR 1995)
- I.118 952.227-13 PATENT RIGHTS – ACQUISITION BY THE GOVERNMENT. (MAR 1995)

I.119 970.5231-4 PRE-EXISTING CONDITIONS. (DEC 2000) ALTERNATE II (DEC 2000)

The following Clauses are incorporated by reference with fill-in. The numbering of these clauses is for consecutive numbering only.

I.120 52.216-10 INCENTIVE FEE. (MAR 1997)

- (e) Fee payable. (1) The fee payable under this contract shall be the target fee increased by __ cents for every dollar that the total allowable cost is less than the target cost or decreased by __ cents for every dollar that the total allowable cost exceeds the target cost. In no event shall the fee be greater than **twelve percent (12%)** or less than **two percent (2%)** of the target cost. (2) The fee shall be subject to adjustment, to the extent provided in paragraph (d) of this clause, and within the minimum and maximum fee limitations in paragraph (e)(1) of this clause, when the total allowable cost is increased or decreased as a consequence of-

I.121 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES. (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

*This Statement is for Information Only:
It is not a Wage Determination*

EMPLOYEE CLASS	MONETARY WAGE – FRINGE BENEFITS
IGUA Guards	11.63
Boiler Operator Helper	15.19
Carpenter	18.05
Carpenter, Apprentice	15.19
Chemical Operator	18.05
Electrician	18.05
Electrician, Apprentice	15.19
Hazwat	16.34

EMPLOYEE CLASS	MONETARY WAGE – FRINGE BENEFITS
Heavy Equipment Operator	18.05
Industrial Vacuum Loader Operator	14.61
Industrial Mechanic	18.05
Instrument Mechanic, Apprentice	15.19
Laborer, General	13.47
Laborer, Transportation	13.47
Laundry Worker	13.47
Locomotive/Switchman	18.05
Machinist	18.05
Mason	18.05
Millwright	18.05
Millwright, Apprentice	15.19
Motor Vehicle Operator	16.34
Oiler	14.61
Painter	18.05
Pipefitter	18.05
Pipefitter, Apprentice	15.19
Porter	13.47
Private Motor Carrier Operator	18.05
Professional Warehouse Attendant	14.61
Pump Operator	15.19
QA Checker	16.34
Respirator Wash	14.08
Rigger	18.05
Stationary Engineer	18.05
Waste Water Plant Operator	18.05
Water Plant Operator	18.05

EMPLOYEE CLASS	MONETARY WAGE – FRINGE BENEFITS
Welder	18.05
Mailroom Supply Specialist	8.51
Word Processing Technician III	10.68
Accounting Technician II	10.68
Information/Records Specialist II	8.51
Information Mgmt. Technician II	10.68
Inventory Supply Specialist	10.68
Medical Assistant	10.68
Procurement Technician II	10.68
Secretary III	10.68
Engineer Aide II	10.68
Environmental/Laboratory Technician II	8.51
Information/Records Specialist III	10.68
Lead Mailroom Supply Specialist	13.23
Procurement Technician III	13.23
Sr. Reproduction Equipment Operator	13.23
Quality Verifier II	10.68
Environmental/Lab Technician III	10.68
Health Physics Technician III	10.68
Drafter III	10.68
Radiation Control Technician III	10.68
Sr. Accounting Technician	13.23
Sr. HR/Industrial Relations Specialist	13.23
Engineer Aide III	13.23
Sr. Graphics Artist	13.23
Engineer Technician	13.23

EMPLOYEE CLASS	MONETARY WAGE – FRINGE BENEFITS
Sr. Drafter	13.23
Sr. Env./Laboratory Technician	13.23
Sr. Executive Secretary	13.23
Sr. Firefighter/Emergency Response Specialist	13.23
Sr. Radiation Control Technician	13.23
Sr. Health Physics Technician	13.23
Sr. Industrial Hygiene Technician	13.23
Sr. Quality Verifier	13.23

I.122 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA. (JAN 1997)

- (b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert "None")	Identification No.

I.123 52.223-7 NOTICE OF RADIOACTIVE MATERIALS. (JAN 1997)

- (a) The Contractor shall notify the Contracting Officer or designee, in writing, **30 days** prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect

on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 9000-0107).

I.124 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL). (JUN 1987)

Except for data contained on pages TBD, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data-General" clause contained in this contract) in and to the technical data contained in the proposal dated TBD, upon which this contract is based.

I.125 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER-OTHER THAN CENTRAL CONTRACTOR REGISTRATION. (MAY 1999)

- (a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer. (2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either- (i) Accept payment by check or some other mutually agreeable method of payment; or (ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause). (b) Mandatory submission of Contractor's EFT information. (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by **no later than 15 days prior to submission of the first request for payment**. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

I.126 52.244-2 SUBCONTRACTS. (AUG 1998)

- (e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: **to be determined by Contracting Officer's letter**.

- (k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations: TBD.

I.127 52.247-1 COMMERCIAL BILL OF LADING NOTATIONS. (APR 1984)

- (a) If the Government is shown as the consignor or the consignee, the annotation shall be: Transportation is for the Department of Energy and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and shall be reimbursed by, the Government.
- (b) If the Government is not shown as the consignor or the consignee, the annotation shall be: Transportation is for the Department of Energy and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement contract No. DE-AC24-04OH20171. This may be confirmed by contacting the person listed in Section G of this contract.

I.128 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES. (APR 1984)

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.
- (b) The use in this solicitation or contract of any Department of Energy Acquisition Regulation. (48 CFR 9) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

I.129 952.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS)

Modify FAR 52.245-5 by adding “and DOE Acquisition Regulation Subpart 945.5” after the reference to FAR Subpart 45.5 in paragraphs (e)(1) and (e)(2) of the clause.

The following Clause is incorporated in full text. The numbering of this clause is for consecutive numbering only.

I.130 52.227-14 RIGHTS IN DATA–GENERAL (JUNE 1987), as modified by DEAR 927.409

- (a) Definitions.

- (1) Computer data bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.
- (2) Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.
- (3) Data, as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. For the purposes of this clause, the term does not include data incidental to the administration of this contract, such as financial, administrative, cost and pricing, or management information
- (4) Form, fit, and function data, as used in this clause, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating, and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.
- (5) Limited rights data, as used in this clause, means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. The Government's rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of subparagraph (g)(2) of this section if included in this clause.
- (6) Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of subparagraph (g)(3) of this section if included in this clause.

- (7) Technical data, as used in this clause, means recorded data, regardless of form or characteristic, that are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.
 - (8) Unlimited rights, as used in this clause, means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, including by electronic means, and perform publicly and display publicly, in any manner, including by electronic means, and for any purpose whatsoever, and to have or permit others to do so.
- (d)(3) The Contractor agrees not to assert copyright in computer software first produced in the performance of this contract without prior written permission of the DOE Patent Counsel assisting the contracting activity. When such permission is granted, the Patent Counsel shall specify appropriate terms, conditions, and submission requirements to assure utilization, dissemination, and commercialization of the data. The Contractor, when requested, shall promptly deliver to Patent Counsel a duly executed and approved instrument fully confirmatory of all rights to which the Government is entitled.