COOPERATIVE AGREEMENT CONTENTS

This agreement consists of:

Notice of Financial Assistance Award, DOE F 4600.1
Part I - Scheduled Articles

Article I - Statement of Joint Objective
II - The Project Management Plan
III - Financial Support
IV - Payments
V - Payment Methods
VI - Term of the Agreement
VII - Project Information System
VIII - Responsible Persons and Personnel
IX - Public Information Releases
X - Liabilities
XI - Management of the Project

Part II - Statement of Work
Part III - Budget Information, Standard Form 424A
Part IV - Special and General Provisions
Part V - Federal Assistance Reporting Checklist, DOE F 4600.2

The following are incorporated by reference:

Part VI - DOE Order 1332.2 Uniform Reporting System for Federal Assistance (grants and cooperative agreements) Part VIII - Cost Principles, Federal Acquisition Regulation 31.2 and Department of Energy Acquisition Regulation 931.2 OMB Circular A-87
PART I

SCHEDULED ARTICLES
ARTICLE I - STATEMENT OF JOINT OBJECTIVE

The purpose of this cooperative agreement (hereinafter referred to as the "Agreement") is to provide funding to Pinellas County Industry Council (PCIC) (hereinafter referred to as the "Participant") to support property reutilization, and economic development activities under the program of defense transition of the DOE Pinellas Plant, Largo, Florida. The Participant has been approved by the Community Reuse Organization (CRO) to engage in these endeavors which are designed to minimize the adverse economic impact expected to result as the U. S. Department of Energy's Pinellas Plant closes. The CRO has been designated by DOE to represent the Tampa Bay area during the transition period.

The funding is provided under Title IV of the 1993 Defense Appropriations Act to execute the programs authorized under the Defense Conversion, Reinvestment, and Transition Assistance Act of Fiscal Year 1993, and other legislation. Personal property transfers are subject to Public Law 103-160, National Defense Authorization Act for Fiscal Year 1994, Section 3155.

The objectives of this program are 1) to identify potential replacement occupants for the Pinellas Plant facility and, 2) to identify replacement job opportunities for Pinellas Plant employees through creation of new businesses, attraction of businesses into the area and the expansion of existing businesses in the Tampa Bay area; and these objectives will be met by managing the Pinellas Plant in such a manner as to transition its use from federal government needs to commercial enterprise, developing business plans, identifying funding alternatives, and implementing the sub-programs outlined in the March 8, 1995, application.

ARTICLE II - THE PROJECT MANAGEMENT PLAN

The project tasks for this Agreement are described in Part II, Statement of Work, and made a part hereof by this reference.

A. **Participant's Responsibilities.** The Participant shall provide funds, resources, and reports specifically identified elsewhere in this Agreement, and obtain all necessary licenses and permits.

B. **DOE Responsibilities.** DOE will provide a specified amount of financial assistance, monitor the project, and act upon the Participant's requests for approval in those instances in which DOE's approval is required.
ARTICLE III - FINANCIAL SUPPORT

A. Overview. This Agreement covers certain administrative and construction costs of the Participant. Pending the availability of funds and anticipated progress, this Agreement may be expanded in scope and extended beyond the budget period up to a total of three (3) years from the effective date of this project period award.

B. Estimated Cost. The total estimated cost (including Participant cost share) of the work under this Agreement is six million, two hundred two thousand, six hundred ninety one dollars ($6,202,691). These costs shall be shared by DOE and the Participant as described in Part II, Budget Information. If at any time the Participant has reason to believe that this or any revised estimate is in error, the Participant shall so notify DOE in writing and provide DOE with a new estimate with the next quarterly Federal Assistance Management Summary Report.

C. Cost Share. In accordance with DOE directive, DOE shall contribute 100% of the allowable construction cost and at least 75% of all other costs for the performance of work during this Agreement and the Participant shall contribute at least 10% of the administrative costs. That is, the Participant must match each nine dollars ($9.00) of DOE’s share of costs with one dollar ($1.00) of allowable matching costs for the administrative portion of this support only (See 10 CFR 600.424).

D. Fee. No fee shall be paid to the Participant under this Agreement.

E. DOE’s Financial Support. The total cost to DOE for all the work under this project is six million, one hundred eighty one thousand, six hundred ninety one dollars ($6,181,691); and under no circumstances will DOE’s support exceed this amount unless a supplemental award is made by the Contracting Officer. DOE may, however, determine to loan or transfer property in addition to this funding ceiling. The fair market value of this property is subject to the matching requirement. The limitation in this paragraph includes termination costs, if any.

F. Participant’s Financial Support. All costs in excess of the six million, one hundred eighty one thousand, six hundred ninety one dollars ($6,181,691) to be provided by DOE will be borne by the Participant unless the Agreement has been supplemented by the Contracting Officer. Such supplemental award will establish a new DOE financial assistance ceiling commitment.

G. Obligated Funds. Pursuant to 10 CFR 600.24, "Maximum DOE Obligation" the amount of funds hereby obligated to this Agreement by DOE for the budget period as listed on page one is six million, one hundred eighty one thousand, six hundred ninety one dollars ($6,181,691). Unobligated balances may be carried forward to subsequent funding periods during the terms of this Agreement.
ARTICLE IV - PAYMENTS

Payments under this award will be made by the advance payment method in accordance with information provided in Part III, DOE Form 4600.4, Federal Assistance Budget Information and the method described in Article V below. In addition to the initial supply of forms made available with the award, appropriate payment forms and instructions will be provided by the office identified below.

ARTICLE V - PAYMENT METHODS

A. Two (2) copies of Standard Form 270 (Request for Advance or Reimbursement), shall be submitted to the Contracting Officer shown in block 12 of the Notice of Financial Assistance Award (hereinafter referred to as "Notice of Award").

B. Payments due for amounts properly invoiced in accordance with the terms and conditions specified elsewhere in the Agreement shall be made either by Treasury check(s) payable to the Participant or by electronic funds transfer(s) to a financial institution designated by the Participant. The method of payment shall be determined by the government at the time of payment in accordance with applicable Department of Treasury requirements.

C. After award but no later than 14 days before an invoice or bill is submitted for payment, the Participant shall designate a financial institution for the receipt of electronic funds transfer payments hereunder; and provide the appropriate government representative (Contracting Officer or finance official as determined by the government) with the name of the designated financial institution, financial institution’s or correspondent financial institution’s nine-digit American Bankers Association identifying number, telegraphic abbreviation of such financial institution, and account number at the designated financial institution to be credited with the funds.

D. In the event the Participant, during the performance of this Agreement, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the information as specified in paragraph C. above must be received by the appropriate government representative 30 days prior to the date such change is to become effective.

E. Participant’s failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.
ARTICLE VI - TERM OF THE AGREEMENT

A. **The Term of This Agreement.** The work under this Agreement shall be completed by December 31, 1997, or within any extension of time as may be mutually agreed to in writing by the parties. Pending the availability of funds and anticipated progress, this Agreement may be extended for a total of one (1) year from the end of the project period date shown on the face of this award.

B. **Termination Provision.** Subject to a reasonable determination that the project will not produce beneficial results commensurate with the expenditure of resources, either party may terminate this Agreement by written notice to the other party, provided that such written notice is preceded by consultation between the parties. In the event of a termination of the Agreement, the government shall have paid-up government purpose license rights to CATEGORY C data (as defined in Part IV, clause 20 (j) of this Agreement) developed under this Agreement. The government and the Participant will negotiate in good faith an equitable reimbursement for work performed toward the accomplishment of Milestones at the time of government termination. Failure of the parties to agree to an equitable adjustment will be resolved pursuant to Part IV, Section C Clause 23, "Disputes and Appeals". The government has no obligation to reimburse the Participant if the Participant decides to terminate.

C. **Extending the Term.** The parties may extend by mutual written agreement the term of this Agreement if funding availability and developmental opportunities reasonably warrant. Any extension shall be formalized through modification of the Agreement by the Contracting Officer and the Participant’s administrator.

ARTICLE VII - PROJECT INFORMATION SYSTEM

The federal assistance participant shall prepare and submit (postage prepaid) the Part V plans and reports indicated on the Federal Assistance Reporting Checklist, DOE F 4600.2, to the addresses and in the number of copies designated on the checklist. Preparation of the specified plans and reports shall be in accordance with DOE Order 1332.2, Uniform Reporting System for Federal Assistance (grants and cooperative agreements). The level of detail the Participant provides in the plans and reports shall be commensurate with the scope and complexity of the task and shall be as delineated in Block 4 Reporting Requirements and Block 5 - Special Instructions. The prime Participant shall be responsible for acquiring data from any subcontractors or sub-recipients to ensure that data submitted are compatible with the data elements which prime Participant submit to DOE. Plans and reports submitted in compliance with this provision are in addition to any other reporting requirements of the federal assistance instrument.

All reports after delivery to DOE shall be the sole property of the DOE. The Participant shall not claim that any report contains any trade secrets or commercial or financial information deemed by the Participant to be privileged or confidential, or that the Participant has any proprietary interest in any report unless clearly marked as "proprietary" on the reports request in Part V of this Agreement.
ARTICLE VIII - RESPONSIBLE PERSONS AND PERSONNEL

A. The Participant agrees to permit any specified DOE personnel to have necessary access to the Participant’s and/or major subcontractor’s facilities, personnel, and records pertaining to the project. Such personnel may be used to assist the Contracting or Project Officer.

B. The Contracting Officer has the responsibility/authority for executing, amending, and terminating award instruments. In addition, the Contracting Officer, or designee, has the responsibility for: conducting negotiations concerning the statement of work, costs, and schedule; administration of the Agreement; arranging for audits, as appropriate, and resolving audit findings; assuring policies and procedures are implemented; approving payments; and taking actions required to close-out the Agreement.

C. The Project Officer is DOE’s technical representative for the Agreement and has the following responsibilities: monitors and assesses the status of progress toward achieving the program milestones and objectives; reviews and evaluates all technical reports prepared by the Participant; represents DOE at program review meetings; reviews cost vouchers; and coordinates with the Participant in choosing among alternatives for future program activities. The Project Officer may be assisted by designated DOE contractor personnel in carrying out these responsibilities.

D. The Project Officer for DOE under this Agreement, and the person who shall be the Participant’s contact for all programmatic and technical matters pertaining to this Agreement, shall be the person named in block 11 of the Notice of Award or such other person as may be designated in writing by the Contracting Officer.

E. The Recipient Project Director for the Participant for the purposes of this Agreement shall be the person named in block 8. of the Notice of Award or such other person as may be designated in writing by the Participant and approved by the Contracting Officer.

ARTICLE IX - PUBLIC INFORMATION RELEASES

The parties agree that public disclosure or dissemination of new data or information arising out of this development and demonstration project, or operation of the project will be coordinated by the parties, it being understood that the intent of both the Participant and DOE is to release all data and information to the greatest practicable extent in order to achieve the objective of obtaining maximum public value from the results of this project. It is understood that the foregoing is not intended to afford either party the right to prevent a public release by the other; however, nothing in this article shall impair the rights of the parties set forth elsewhere in this Agreement, including but not necessarily limited, to General Provision, Part IV, Section B, clause 20 entitled "Patent Rights - Small Business Firm or Nonprofit Organization."
The Participant shall provide DOE one copy of any news releases, information folders, brochures, advertisements, technical papers, and magazine or newspaper articles pertaining to work performed under this Agreement. The Participant shall advise the DOE Project Officer in a timely manner of significant news media or public reactions to work performed under the Agreement.

**ARTICLE X - LIABILITIES**

DOE shall not be liable for damages to persons or to Participant’s or third party property incurred by the Participant or its subcontractors in the performance of work under this Agreement. The Participant shall maintain financial coverage for potential liability as agreed upon by the Participant and the Contracting Officer.

It is understood that the Participant is fully self-insured pursuant to Florida Statute 768.28 for its premises, operations, contractual and automobile exposures.

Neither Participant, nor its employees, Community Reuse Organization (CRO) members, agents, or subcontractors shall be liable to the government for any consequential losses or damages such as: loss of anticipated profits, interest, loss by reason of plant or facility shutdown or non-operation; or, increased expense of operation of any facility or any equipment.

**ARTICLE XI - MANAGEMENT OF THE PROJECT**

A. The Participant, in accordance with its agreements with the Community Reuse Organization (CRO), may bind the CRO members which are as set forth in Attachment 1 of this Agreement.

It is understood that the Participant regularly scheduled monthly meetings of its Executive Board. The Participant shall notify appropriate CRO members and the DOE Project Officer of the established meeting schedule and, in the event of changes to this schedule or special meetings, shall notify all CRO members and the DOE Project Officer preferably 15 calendar days prior to the next scheduled meeting.

B. **DOE Approval**

The following decisions are subject to DOE approval:

1. Any changes that substantially alter the relationship of the Participant and the CRO as originally agreed upon when the Agreement was executed;

2. Award of any subcontract or subgrant to perform activities which are central to the purpose of this award. This does not apply to the procurement of equipment or supplies and general support services.

3. Changes to, or elimination of, any DOE funding allocation to any third party as technically and/or financially justified; and

4. Technical and/or funding revisions to the Agreement.
C. Management and Program Structure

1. Technical and program management of the coordinated economic development project established under this Agreement shall be accomplished through the management structures and processes detailed in this article.

(a) Subject to the broad policy guidance of the CRO, the Participant shall be responsible for the overall management of this Agreement including technical, programmatic, reporting, financial, and administrative matters.

(b) The DOE Project Officer shall have the opportunity to fully participate in all meetings of the Participant. Other government personnel, as deemed appropriate by the DOE Project Officer, may also participate in the technical portion of these meetings.

2. The DOE Project Officer shall be responsible for the review and verification of the Milestones and shall have continuous interaction to cause effective collaboration between DOE and the Participant.

D. Program Management Planning Process

The program management and planning process shall be subject to quarterly and semi-annual reviews with inputs and review from the Participant and the DOE Project Officer.

1. Initial Program Plan

The Participant will follow the initial program plan that is contained in the Statement of Work (Part II) and the Schedule of Milestones.

2. Overall Program Plan Semi-Annual Review

(a) The Participant, with DOE Project Officer participation and review, will prepare an overall program review on a semi-annual basis of each Agreement year. The semi-annual program review will be presented and reviewed at a site concurrent with the appropriate quarterly meeting of the Participant which will be attended by the CRO members, the DOE Project Officer, senior management, or other DOE program managers and personnel as appropriate. The Participant, with DOE participation and review, will prepare a final report.
(b) The semi-annual program review provides a detailed schedule of economic development activities, commits Participant to use its best efforts to meet specific performance objectives, includes forecasted expenditures, and describes the status of the Milestones. The semi-annual program review will consolidate all prior adjustments in the economic development schedule, including revisions/modifications to Milestones. Recommendations for changes, revisions, or amendments to the Agreement which result from the semi-annual review shall be made in accordance with the provisions of Part I, Article XI, Section E.

E. Amendments

1. As a result of quarterly meetings, semi-annual program reviews, or at any time during the term of the Agreement, economic development progress or results may indicate that a change in the Statement of Work and/or the Milestones would be beneficial to program objectives. Recommendations for modifications, including justifications to support any changes to the Statement of Work and/or the Milestones will be documented in a letter and submitted by the Participant to the DOE Project Officer with a copy to the DOE Contracting Officer. This documentation letter will detail the technical, chronological, and financial impact of the proposed modification to the economic development program. The Participant shall approve any Agreement modification. The government is not obligated to pay for additional or revised Milestones until the Milestone's Schedule (Attachment 3) is formally revised by the DOE Contracting Officer and made part of this Agreement.

2. The DOE Project Officer shall be responsible for the review and verification of any recommendations to revise or otherwise modify the Agreement, Statement of Work, Schedule of Payments or Milestones, or other proposed changes to the terms and conditions of this Agreement.

3. For minor or administrative Agreement amendments (e.g., changes in the paying office or appropriation data, changes to government or consortium personnel identified in the Agreement, etc.), no signature is required by the Participant.
PART II

STATEMENT OF WORK

DE-FC04-95AL87471

The Statement of Work is covered by the Participant's application dated March 8, 1995, with changes as negotiated and as modified by this Agreement, especially those parts covering DOE responsibilities (see especially Part I, Article II B and Article XI B).
Cooperative Agreement No. DE-FC04-95AL87471

STATEMENT OF WORK

1. **Objective**

   The Participant will provide administrative and management services in: a) the leasing and management of the available portions of the Pinellas Plant for economic development purposes; b) the development and negotiation of a strategy to convey the title of the Pinellas Plant from the U. S. DOE to the community; c) the management, as approved by the Community Reuse Organization (CRO), of specific economic development projects and, d) the management of required improvements, adjustments and maintenance of the non-DOE leased Plant site.

2. **Background**

   With the disintegration of the Soviet Union, the United States defense posture has been significantly altered, resulting in the closure of DOD and DOE defense facilities and termination of programs. The Congress and Executive Branch of the Federal Government have developed policies and passed legislation to mitigate the adverse affect of defense downsizing and facility closures. The DOE has required each community to organize itself into a body that can speak as a single voice on economic development matters. The CRO has been established and has designated the Participant as the entity to manage the Pinellas Plant facility and to develop a community strategy for Conveyance of Title. The community's and the DOE's goal is to take advantage of the DOE resources currently available at the Pinellas Plant and the legislation that has been passed, to create new job opportunities by leasing the facility to new businesses and to develop a community infrastructure that can manage the facility in a timeframe that is consistent with phasing out of the DOE mission. By having an integrated DOE and community plan, cost to the federal taxpayer are reduced and the likelihood of having a sustaining community asset that mitigates the adverse effects of plant closure is greater.

3. **Scope**

   The scope of this Agreement involves technical, administrative and management services to fulfill DOE's public mission of economic development of the greater Pinellas Plant community as the weapons mission is closed-out. The Participant shall provide necessary services such as management of all leasing of the facility, the development of a strategy and community position for the Conveyance of Title, the management of specific economic development projects, and alteration, renovation and maintenance of the non-DOE occupied facility. Technical personnel of a variety of capabilities will be required to perform facility management functions as a larger portion of the plant is leased to the community for sub-leasing to business for economic development purposes. A phased program plan of human and financial resources will be developed to coincide with DOE mission completion.
Special studies may need to be performed to access the functional state of the facility for potential tenants, the environmental status of restoration activities, the submission of program plans for regulatory permit application, to name a few, in order to develop a comprehensive plan for title conveyance.

In addition, as the community's economic development plan evolves the Participant may be requested to perform specific economic development projects. Examples of possible projects are the management of a small business incubator site or the management of funds that when matched with an industrial partner are leveraged to produce new products, services and new jobs. The management of these projects will possibly require management and definitely technical and administrative personnel.

4. Technical Requirements

The Participant shall provide management, technical, and administrative support for the overall performance of work under the Agreement as follows:

4.1 Facility Leasing and Operation

A Master Plan that is phased with the completion of the DOE activities will be developed by April 28, 1995. The Participant will make a good faith effort to secure DOE approval of this Plan by May 31, 1995. The DOE will provide comments on the Plan, or accept it, within 10 working days after receipt. The Plan shall have sufficient information to be able to clearly understand the technical and management capabilities being established. The Plan will demonstrate the ability of the Participant to maintain the facility in a self-sustaining manner. Approval of the Plan will result in the funding of this portion of the entire scope of this Agreement.

4.1.1. The Plan shall include as a minimum:

1) An estimate of costs by fiscal year for:
   a) Personnel
   b) Operating costs
   c) Facility enhancement
2) A manpower projection by category of skills.
3) The number and type of potential tenants.
4) A budget by fiscal year that identifies total costs, revenues, profits/shortfalls.

4.1.2. The Participant shall provide technical guidance to potential tenants and community representatives on an as needed basis.

4.1.3. The Participant shall provide an assessment of available personal property and its value in terms of economic development will be completed by March 1994.

4.1.4. The Participant shall develop possible incentives for tenant attraction by May 1995.
4.1.5. The Participant may utilize specialists for areas outside the expertise of available personnel to perform special studies. Contracting Officer approval is required for each study.

4.2 Development of Community Strategy of Title Conveyance
The Participant shall perform the necessary studies and assign appropriate personnel to understand and access the legal, environmental and facility issues associated with the conveyance of title. Alternative ways of accomplishing the transfer will be studied and negotiated with DOE. Appropriate personnel will attend negotiation meetings with DOE. An outline strategy for conveyance of title will be developed in conjunction with DOE. The Participant will support this effort and the final plan for conveyance of title agreed to by the DOE.

4.3 Economic Development Programs
The Participant will provide to DOE a plan for specific economic development programs authorized by the CRO. The plan will designate the objective, benefits, required resources, and a schedule for each major milestone for the program. The plan will be reviewed by the DOE and if approved, the Agreement will be modified accordingly.

4.4 Maintenance and Construction Management
The Participant shall manage all maintenance and construction activities appropriate to maximizing the economic development of Pinellas Plant property under its control including those required to meet all applicable building codes. These construction projects may include, but are not limited to, demolition, alteration, renovation, new additions, paving, and painting as well as those needed to comply with building codes.

END OF PAGE
PART III

BUDGET INFORMATION
U.S. Department of Energy
Federal Assistance Budget Information

QMB Burden Disclosure Statement
Public reporting burden for this collection of information is estimated to average 1.87 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management, AD-241.2 - GTN, Paperwork Reduction Project (1910-0400). U.S. Department of Energy, 100 Independence Avenue, S.W., Washington, D.C. 20585, and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, D.C. 20503.

1. Program/Project Identification No. DE-FC04-95AC87471

2. Program/Project Title Economic Development Activities

3. Name and Address Pinellas County Industry Council
   2200 Tall Pines Drive, Suite 100
   Largo, FL 34641

4. Program/Project Start Date 1/1/95
5. Completion Date 12/31/95

SECTION A - BUDGET SUMMARY

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SECTION B - BUDGET CATEGORIES

<table>
<thead>
<tr>
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<td>c. Travel</td>
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<td>7. Program Income</td>
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</tbody>
</table>
PART IV

GENERAL AND SPECIAL PROVISIONS

SECTION A - SPECIAL TERMS AND CONDITIONS

SECTION B - GENERAL TERMS AND CONDITIONS

SECTION C - CLAUSES PROVIDED IN FULL TEXT
## PART IV
### SECTION A
**SPECIAL TERMS AND CONDITIONS**

### TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Clause</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Terms, Conditions, and Applicable Rule.</td>
<td>IV-A-1</td>
</tr>
<tr>
<td>2.</td>
<td>Substantial Involvement Between DOE and the Participant</td>
<td>IV-A-1</td>
</tr>
<tr>
<td>3.</td>
<td>Indirect Costs</td>
<td>IV-A-1</td>
</tr>
<tr>
<td>4.</td>
<td>Interest Earned on Advances of DOE Funds</td>
<td>IV-A-1</td>
</tr>
<tr>
<td></td>
<td>(Section 600.421(i))</td>
<td></td>
</tr>
</tbody>
</table>
SPECIAL TERMS AND CONDITIONS

The requirements of this attachment take precedence over all other requirements of this award found in regulations, the general terms and conditions, DOE orders, etc., except requirements of statutory laws. Any apparent contradiction of statutory law stated herein should be presumed to be in error until the awardee has sought and received clarification from the Contracting Officer, whose signature appears on the face page of this award.

1. TERMS, CONDITIONS, AND APPLICABLE RULES

This Agreement is governed by 10 CFR Part 600, "DOE Financial Assistance Rules." The following subparts are applicable to this Agreement:

Subpart A -- General
Subpart D -- Audit of State and Local Governments
Subpart E -- Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

2. SUBSTANTIAL INVOLVEMENT BETWEEN DOE AND THE PARTICIPANT

During performance of the project as described in Part II, substantial involvement between DOE and the Participant is anticipated. The nature of the federal involvement shall be an interactive relationship with the Participant with DOE participation in activities, such as, exchanging information, and attending advisory group meetings, Participant and CRO members' meetings, and project management review meetings. DOE shall also have the authority and be responsible for the approvals specified in Part I, Article XI B.

3. INDIRECT COSTS

It is understood and agreed that the Participant's actual allowable indirect cost shall be treated as direct costs except for those which are allocable to other projects.

4. INTEREST EARNED ON ADVANCES OF DOE FUNDS (Section 600.421(i))

Any interest earned on advances of DOE funds, shall be promptly, but at least quarterly, remitted to the DOE. The Participant may keep interest amounts up to $100 per year for administrative expenses.
# PART IV
## SECTION B
### GENERAL TERMS AND CONDITIONS FOR ASSISTANCE AWARDS

**TABLE OF CONTENTS**

<table>
<thead>
<tr>
<th>Clause</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>Award Terms and Conditions</td>
<td>IV-B-1</td>
</tr>
<tr>
<td>6.</td>
<td>Cost-Sharing</td>
<td>IV-B-1</td>
</tr>
<tr>
<td>7.</td>
<td>Maximum Department of Energy (DOE) Obligations</td>
<td>IV-B-1</td>
</tr>
<tr>
<td>8.</td>
<td>Allowable Costs/Applicable Cost Principles</td>
<td>IV-B-1</td>
</tr>
<tr>
<td>9.</td>
<td>Preaward Costs</td>
<td>IV-B-2</td>
</tr>
<tr>
<td>10.</td>
<td>Interest</td>
<td>IV-B-2</td>
</tr>
<tr>
<td>11.</td>
<td>Prior Approvals</td>
<td>IV-B-3</td>
</tr>
<tr>
<td>12.</td>
<td>Contracting Officer's Project Representative (COP)</td>
<td>IV-B-4</td>
</tr>
<tr>
<td>13.</td>
<td>Reporting Requirements</td>
<td>IV-B-4</td>
</tr>
<tr>
<td>14.</td>
<td>Amendments</td>
<td>IV-B-5</td>
</tr>
<tr>
<td>15.</td>
<td>Property</td>
<td>IV-B-5</td>
</tr>
<tr>
<td>16.</td>
<td>National Security</td>
<td>IV-B-6</td>
</tr>
<tr>
<td>17.</td>
<td>Liabilities and Losses</td>
<td>IV-B-6</td>
</tr>
<tr>
<td>18.</td>
<td>Evaluation, Analysis, Assistance, and Approval</td>
<td>IV-B-7</td>
</tr>
<tr>
<td>19.</td>
<td>Assurances</td>
<td>IV-B-7</td>
</tr>
</tbody>
</table>
GENERAL TERMS AND CONDITIONS FOR ASSISTANCE AWARDS

Wherever it may appear in the clauses identified below, change "Contractor" to "Participant" and "Contract or Grant" to "Cooperative Agreement." The use of the term "Subcontractor" in any of the clauses means contractor to the Participant and all tiers of subcontractors thereunder unless specified otherwise.

5. **Award Terms and Conditions.** In addition to these general terms and conditions, the awardee must comply with all governing requirements, including those identified in Block 18 of the Notice of Financial Assistance Award and those included in the Special Terms and Conditions attached to this award.

The awardee’s signature on the application and on the Notice of Financial Assistance Award signifies the awardee’s agreement to all of the terms and conditions of award.

6. **Cost-Sharing.** Any cost-sharing as shown on the face page of this award shall defray allowable costs of the project only. The Participant shall provide at least 10 percent non-federal funding for each budget period for non-construction costs. Allowability of such costs shall be determined in accordance with the statutes, regulations, applicable cost principles, and other terms and conditions governing this award.

7. **Maximum DOE Obligation.** This award is subject to the requirement that the maximum DOE obligation to the awardee is the amount shown on the Notice of Financial Assistance Award as the amount of DOE funds obligated. DOE shall not be obligated to make any additional, supplemental, continuation, renewal or other award for the same or any other purpose.

The government obligations may be increased unilaterally by DOE by written notice to the awardee and may be increased or decreased by written agreement of the parties.

8. **Allowable Costs/Applicable Cost Principles.** In accordance with the applicable cost principles cited below and up to the amount shown on the face page of this award for the total approved budget for the current budget period (line 16.a.(6)), the allowable costs of this award shall consist of the actual allowable direct costs incident to performance of this project plus the allocable portion of the allowable indirect costs, if any, of the organization less applicable credits.

The allowability of costs for work performed under this award and any subsequent subaward will be determined in accordance with the federal cost principles applicable to the awardee or subawardee in effect on the date of award or, for any subaward, in effect as of the date of that subaward, except as modified by other provisions of this award or the subaward.
The federal cost principles applicable to specific types of awardees and subawardees are:

a. **Institutions of Higher Education.** Office of Management and Budget (OMB) Circular A-21, Cost Principles Applicable to Grants, Contracts and Other Agreements with Institutions of Higher Education, is applicable to both public and private colleges and universities.

b. **State and Local Governments and Indian Tribal Governments.** OMB Circular A-87, Cost Principles Applicable to Grants, Contracts and other Agreements with State and Local Governments, is applicable to state, local, and Indian tribal governments (and shall also be used to the extent appropriate for foreign governments).

c. **Hospitals.** 45 CFR Part 74, Appendix E, Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals, applies to nonprofit and for-profit hospitals.

d. **Other Nonprofit Organizations and Individuals.** OMB Circular A-122, Cost Principles Applicable to Grants, Contracts, and Other Agreements with Nonprofit Organizations, applies to nonprofit organizations and individuals except for nonprofits specifically exempted by the terms of the circular or those nonprofits covered by the cost principles cited in items a. - c. above.

e. **Commercial Firms and Certain Nonprofit Organizations.** 48 CFR Subpart 31.2, Contracts with Commercial Organizations, as supplemented by 48 CFR Subpart 931.2, applies to those nonprofit organizations not covered by OMB Circular A-122, as specified by the terms of that circular, and to all commercial organizations other than those covered by the cost principles in item c. above.

Copies of the OMB Circular may be obtained from the Office of Management & Budget, Office of Administration, Publications Unit, Washington D.C. 20503.

9. **Preaward Costs.** For new or renewal developmental or demonstration awards, awardee may incur preaward costs up to 90 days prior to the effective date of the award. Should the awardee take such action, it is done so at the awardee’s risk and does not impose any obligation on the DOE to issue an award. Further, the Participant’s share of project costs are likewise allowable for those costs incurred prior to the effective date of this Agreement. All preaward costs to be allowable must be specifically identified by the Participant in writing and approved, in writing, by the Contracting Officer.

10. **Interest.**

a. Notwithstanding any other term or conditions of this award, all amounts that become payable by the awardee to the government under this award shall bear simple interest from the date due until paid unless paid within 30 days of becoming due.

IV-B-2
The interest rate shall be the interest rate established by the Secretary as provided in Section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this provision, and then at the rate applicable for each three-month period as fixed by the Secretary until the amount is paid.

b. Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this award.

(2) The date of the first written demand for payment consistent with this award, including any demand resulting from a termination.

(3) The date the government transmits to the awardee a proposed agreement to confirm completed negotiations establishing the amount of debt.

c. The interest charge made under this provision may be reduced in accordance with the procedures prescribed in 4 CFR 102.13 or in accordance with agency regulations in effect on the date of the original award.

11. Prior Approvals. A prior approval is a statement in writing, signed by the DOE Contracting Officer, that an action may be taken. The approval may take the form of a letter or of a revision to the award. If actions requiring prior approval are specified in the application and are not expressly disapproved by DOE in the attached Special Terms and Conditions, this award constitutes such prior approval.

a. Requests. All requests for prior approval must be signed by an individual who is authorized to act for the awardee. The signature of the Project Director (unless also a corporate officer or otherwise authorized) is insufficient to obtain action on a prior approval request, although countersignature by the Project Director is not discouraged. Prior approval requests should be addressed to the Contracting Officer named on the face page of this award.

b. Project Director or Key Personnel. Since the DOE decision to fund a project is based, to a significant extent, on the qualifications and level of a participation of the Project Director, a change of Project Director or of the level of effort of the Project Director is considered a change in the approved project. The approval of DOE must be obtained prior to any change of the Project Director or, in certain cases, other key personnel who have been identified as key personnel in the Special Terms and Conditions of this award. In addition, any continuous absence of the Project Director to become substantially less involved in the project than was indicated in the approved application requires DOE prior approval. The awardee is encouraged to contact DOE immediately upon becoming aware that any of these changes are likely to be proposed, but in any event must do so and receive DOE prior approval before effecting any such change.
c. **Changes in Objectives or Scope.** Any change in the objectives or scope of a supported project requires the prior approval of DOE. Such changes include changes in the economic environment of the Tampa Bay Area and in the program plans that are a specific objective of the economic development activities and subprojects included in the application approved by DOE.

d. **Transfer of Substantive Programmatic Effort.** None of the substantive effort of this project may be transferred by contract or subaward to another organization or person without the prior approval of DOE.

12. **Contracting Officer’s Project Representative (COPR).** The individual identified in Block 11 of the Notice of Financial Assistance Award as the DOE Project Officer is the COPR. The COPR is responsible for: 1) monitoring the efforts being conducted by the awardee under the scope of this award; 2) advising the Contracting Officer on technical matters related to administration of the award, including progress and status of the awardee’s project; 3) providing technical advice and guidance to the awardee in order to assist both the efforts of the awardee and the awardee’s adherence to the terms and conditions of the award; and 4) reviewing and verification of the milestones through continuous interaction to cause effective collaboration between DOE, the Participant, and Task Force members.

The COPR does not have the authority to:

- Cause an increase or decrease in the total estimated cost of, or the time required for, the economic development effort being supported;
- Cause any change in the express terms and conditions of the award;
- Cause any change in the objectives or scope of the effort being supported;
- Act in the capacity of the Contracting Officer by issuing any approval or disapproval required by the terms and conditions of the award; or
- Interfere with the awardee’s right to perform under the terms and conditions of the award.

13. **Reporting Requirements**

a. **Copies.** Copies of reports and all other related data and information generated under this award shall be submitted in accordance with the attached Federal Assistance Reporting Checklist (DOE Form EIA-459A - See Part V).

b. **Distribution.** The awardee shall prepare and submit (postage prepaid) the plans and reports indicated on the Federal Assistance Reporting Checklist. Preparation of the specified plans and reports shall be in accordance with the DOE Order 1322.2. The level of detail the awardee provides in the plans and reports shall be commensurate with the scope and complexity of the task.
c. **Proprietary Information.** All reports delivered to DOE shall be the sole property of DOE. The awardee shall not claim that any report contains any trade secrets or commercial or financial information deemed by the awardee to be privileged or confidential, or that the awardee has any proprietary interest in any report.

14. **Amendments.** Awardees are responsible for assuring that properly completed applications for continuation awards are received no later than _N/A_ prior to the expiration date of the current budget period shown on the Notice of Financial Assistance Award.

If an awardee wishes to apply for a renewal award in order to receive funding beyond the scheduled expiration of the existing project period, a properly completed application must be submitted to DOE no later than four months prior to the scheduled expiration date of the project period as shown on the Notice of Financial Assistance Award.

Awardee requests for extension (modifications extending an existing project period by 18 months or less in order to complete a project) must be submitted prior to the expiration date of the project period as shown on the face page of this award, and must include a budget for the use of any remaining funds of any additional funds requested. Any request for an extension, which includes a request for additional funds and any request for an extension of more than 90 days, should be submitted to DOE no later than four months prior to the scheduled expiration date of the project period. As specified in 10 CFR 600.31, on research awards only, the awardee may extend the expiration date of the final budget period of the project (thereby extending the project period) if additional time beyond the established expiration date is needed to assure adequate completion of the original scope of work within the funds already made available. A single extension, which shall not exceed twelve (12) months, may be made for this purpose, and must be made prior to the originally established expiration date. The recipient must notify the cognizant DOE Contracting Officer in the awarding office in writing within ten (10) days of making the extension.

15. **Property**


Title to equipment and supplies acquired by all other awardees shall vest in the awardee. However, such awardees shall be accountable for equipment with a current per unit fair market value of $5,000 or more acquired under this award as specified in 10 CFR 600.432(e), (2) and (3).
For such awardees, supplies need only be accounted for at closeout and then only if they are unused and exceed $5,000 in total aggregate current fair market value. In this case accountability requires that DOE be compensated in an amount computed in accordance with Section 600.433(b) if the supplies are retained for use on non-federal activities.

All awardees shall follow property management policies and procedures which provide for adequate control of the acquisition and use of assets acquired under the award as described in 10 CFR 600.432(d).

All equipment becomes the property of the Participant upon completion of this Agreement upon proper transfer as provided for under Section 3155 mentioned above.

b. Excess Personal Property. Title to excess personal property, as such property is identified in Section 3155 of the above referenced P.L. 103-160, may be transferred for consideration to the Participant for use on economic development activities designed to mitigate the adverse economic impact of the DOE’s closing of the Pinellas Plant.

c. Federal Equipment and Supplies. Federal equipment and supplies as covered under 10 CFR 600, Subpart E, Sections 432 and 433, respectively (commonly referred to as Government Furnished Property) provided under this Agreement are shown in Attachment 2. Such property is subject to the aforementioned regulation unless it is subsequently transferred to the Participant under Section 3155 mentioned above.

d. Intangible Property. Treatment, including reporting, of patent and data rights and copyrights shall be as specified in the Special Terms and Conditions of this award.
16. **National Security.** It is not expected that activities under this award will generate or otherwise involve classified information (i.e., Restricted Data, Formerly Restricted Data, National Security Information). However, if in the opinion of the awardee or DOE such involvement becomes expected prior to the award close out, the awardee or DOE shall notify the other in writing immediately. If the awardee believes any information developed or acquired may be classifiable, the awardee shall not provide the potentially classifiable information to anyone except the Director of Classification, and shall protect such information as if it were classified until notified by DOE that a determination has been made that it does not require such handling. Correspondence which includes the specific information in question shall be sent by registered mail to: U.S. Department of Energy, Attn: Director of Classification, DP-32, Washington, DC 20545. If the information is determined to be classified, the awardee may wish to discontinue the project in which case the awardee and DOE shall terminate the award by mutual agreement. If the award is to be terminated, all material deemed by DOE to be classified shall be forwarded to DOE, in a manner specified by DOE, for proper disposition. If the awardee and DOE wish to continue the award, even though classified information is involved, the awardee shall be required to obtain appropriate DOE security clearances. Costs associated with handling and protecting any such classified information shall then be negotiated.

17. **Liabilities and Losses.** DOE assumes no liability with respect to any damages or loss arising out of any activities undertaken with the financial support of this award.

18. **Evaluation, Analysis, Assistance, and Approval.** Evaluation, analysis, assistance, and approval required by this Agreement shall be accomplished by the DOE’s Contracting Officer or his duly authorized representatives including the COPR.

19. **Assurances.** This award is subject to the provisions of 10 CFR Part 1040, “Nondiscrimination in Federally Assisted Programs.”

END OF PAGE
**PART IV**  
**SECTION C**  
**CLAUSES IN FULL TEXT**  

**TABLE OF CONTENTS**

<table>
<thead>
<tr>
<th>Clause</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.</td>
<td>Rights to Data in Application</td>
<td>IV-C-1</td>
</tr>
<tr>
<td>21.</td>
<td>Access to Records</td>
<td>IV-C-1</td>
</tr>
<tr>
<td>22.</td>
<td>Disputes and Appeals</td>
<td>IV-C-2</td>
</tr>
<tr>
<td>23.</td>
<td>Noncompliance</td>
<td>IV-C-4</td>
</tr>
<tr>
<td>24.</td>
<td>Supervision and Termination</td>
<td>IV-C-5</td>
</tr>
<tr>
<td>25.</td>
<td>Patents Rights (Small Business Firm or Nonprofit Organization)</td>
<td>IV-C-6</td>
</tr>
<tr>
<td>26.</td>
<td>Rights in Technical Data (Short Form)</td>
<td>IV-C-13</td>
</tr>
<tr>
<td>27.</td>
<td>Authorization and Consent</td>
<td>IV-C-14</td>
</tr>
<tr>
<td>28.</td>
<td>Notice and Assistance Regarding Patent and Copyright Infringement</td>
<td>IV-C-14</td>
</tr>
<tr>
<td>29.</td>
<td>Reporting Royalties</td>
<td>IV-C-15</td>
</tr>
<tr>
<td>30.</td>
<td>Government-Wide Debarment and Suspension</td>
<td>IV-C-15</td>
</tr>
<tr>
<td>31.</td>
<td>Certification Regarding Lobbying</td>
<td>IV-C-15</td>
</tr>
<tr>
<td>32.</td>
<td>Changes</td>
<td>IV-C-16</td>
</tr>
<tr>
<td>33.</td>
<td>Officials Not to Benefit</td>
<td>IV-C-16</td>
</tr>
<tr>
<td>34.</td>
<td>Order of Precedence</td>
<td>IV-C-17</td>
</tr>
<tr>
<td>35.</td>
<td>Publication of Federal Financial Support in Procurement Solicitations</td>
<td>IV-C-17</td>
</tr>
</tbody>
</table>

IV-C-1
CLAUSES PROVIDED IN FULL TEXT

Wherever it may appear in the clauses identified below, change "Contractor" to "Participant" and "Contract" or "Grant" to "Cooperative Agreement." The use of the term "Subcontractor" in any of the clauses means Contractor to the Participant and all tiers of subcontractors thereunder unless specified otherwise.

The following clauses, provided in full text, have been mutually agreed upon by the parties of the Cooperative Agreement:

1. ALTERATIONS

   Portions of this Cooperative Agreement are altered as follows:

   a. Clause No.

Clause 20 - Rights to Data in Application (10 CFR 600.18)

Except for technical data contained in pages N/A of the recipient's application, dated ______________________, which are asserted by the recipient as being proprietary data, it is agreed that as a condition of this award, and notwithstanding the provisions of any notice appearing on the application, the Government shall have the right to use, duplicate, disclose, and have others do so for any purpose whatsoever the technical data not identified in the above blanks contained in the application upon which this award is based.

Clause 21 - Access to Records (10 CFR 600.25)

(a) Recipient Records. DOE and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of a recipient that are directly pertinent to the DOE financial assistance award, in order to make audit, examination, excerpts, and transcripts.

(b) Subrecipient Records. DOE, the Comptroller General of the United States, and the recipient, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of a subrecipient which are directly pertinent to the financial assistance subaward, in order to make audit, examination, excerpts, and transcripts.

(c) Contractor and Subcontractor Records. With respect to any negotiated contract or subcontract in excess of $10,000 under a grant or cooperative agreement, DOE, the Comptroller General of the United States, the recipient and (if the contract was awarded under a financial assistance subaward) the subrecipient, or any of their authorized representatives shall have the right of access to any books, documents, papers, or other records of the contractor or subcontractor which are directly pertinent to that contract or subcontract, in order to make audit, examination, excerpts, and transcripts.
(d) **Duration of Access Right.** The right of access may be exercised for as long as the applicable records are retained by the recipient, subrecipient, contractor, or subcontractor. (See 600.442 for record retention requirements for grants and cooperative agreements based on recipient type.)

**Clause 22 - Disputes and Appeals (10 CFR 600.26)**

(a) **Final Determination.** Whenever practicable, DOE shall attempt to resolve informally any dispute over the award or administration of financial assistance. At the initiative of DOE or upon the written request of an applicant for a continuation award or of a recipient, DOE shall mail (by certified mail) a brief written determination signed by a Contracting Officer, setting forth DOE’s final disposition of any dispute which is not resolved informally. Such determination shall contain the following information:

1. A summary of the dispute, including a statement of the issues and of the positions taken by the Department and the party or parties to the dispute; and

2. The factual, legal, and policy reasons for DOE’s disposition of the dispute.

(b) **Right of Appeal.** Except as provided in paragraph (d)(1) of this section, the final determination under paragraph (a) of this section may be appealed to the Financial Assistance Appeals Board (the Board) in accordance with the procedures set forth in 10 CFR part 1024. If the final determination under paragraph (a) of this section involves a dispute over which the Board has jurisdiction as provided in paragraph (d)(2) of this section, the Contracting Officer’s determination shall state that, with respect to such dispute, the determination shall be the final decision of the Department unless, within 60 days, a written notice of appeal is filed. If the final determination under paragraph (a) of this section involves a dispute over which the Board has no jurisdiction as provided in paragraph (d)(1) of this section, the Contracting Officer’s determination shall state that, effective immediately or on a later date specified therein, the determination shall, with respect to such dispute, be the final decision of the Department.

(c) **Effect of Appeal.** The filing of an appeal with the Board shall not stay any determination or action taken by DOE which is the subject of the appeal. Consistent with its obligation to protect the interests of the Federal Government, DOE may take such authorized actions as may be necessary to preserve the status quo pending decision by the Board, or to preserve its ability to provide relief in the event the Board decides in favor of the appellant.
Review on Appeal

(1) The Board shall have no jurisdiction to review:

(i) Any preaward dispute (except as provided in paragraph (d)(2)(ii) of this section), including use of any special restrictive condition pursuant to 600.105 or 600.412;

(ii) DOE denial of a request for a deviation under 600.4 or 600.406 of this part;

(iii) DOE denial of a request for a budget revision or other change in the approved project under 600.103, 600.114, 600.422, or 600.430 of this part or under another term or condition of the award;

(iv) Any DOE action authorized under 600.121(b) (1), (2), (3) or (5); or 600.443 (a)(1), (a)(3) for suspensions only; or 600.443(a)(4) for actions disapproving renewal applications or other requests for extension of time or additional funding for the same project when related to recipient noncompliance, or such actions authorized by program rule;

(v) Any DOE decision about an action requiring prior DOE approval under 600.112(g), 600.119, or 600.436 of this part or under another term or condition of the award;

(vi) A DOE decision not to make a continuation award, which decision is based on the insufficiency of available appropriations;

(vii) Any matter which is under the jurisdiction of the Patent Compensation Board (10 CFR 780.3)

(viii) Any matter which may be heard by the Invention Licensing Appeals Board (10 CFR 781.65 and 781.66); or

(ix) Any other dispute not described in paragraph (d)(2) of this section.

(2) In addition to any right of appeal established by program rule, or by the terms and conditions (not inconsistent with paragraph (d)(1) of this section) of an award, the Board shall have jurisdiction to review:

(i) A DOE determination that the recipient has failed to comply with the applicable requirements of this part, the program statute or rules, or other terms and conditions of the award;
(ii) A DOE decision not to make a continuation award based on any of the determinations described in paragraph (d)(2)(i) of this section;

(iii) Termination of an award for cause, in whole or in part, by DOE;

(iv) A DOE determination that an award is void or invalid;

(v) The application by DOE of an indirect cost rate; and

(vi) DOE disallowance of costs.

(3) In reviewing disputes authorized under paragraph (d)(2) of this section, the Board shall be bound by the applicable law, statutes, and rules, including the requirements of this part, and by the terms and conditions of the award.

(4) The decision of the Board shall be the final decision of the Department.

Clause 23 - Noncompliance (10 CFR 600.28)

(a) Except for noncompliance determinations under 10 CFR Part 1040, whenever DOE determines that a recipient has not complied with the applicable requirements of this part, with the requirements of any applicable program statute or rule, or with any other term or condition of the award, a DOE Contracting Officer shall provide to the recipient (by certified mail, return receipt requested) a written notice setting forth:

(1) The factual and legal bases for the determination of noncompliance;

(2) The corrective actions and the date (not less than 30 days after the date of the notice) by which they must be taken.

(3) Which of the actions authorized under 600.121(b) or 600.443(a) of this part DOE may take if the recipient does not achieve compliance within the time specified in the notice or does not provide satisfactory assurances that actions have been initiated which will achieve compliance in a timely manner.

(b) DOE may take any of the actions set forth in 600.121(b) or 600.443(a) of this part concurrent with the written notice required under paragraph (a) of this section or with less than 30 days written notice to the recipient whenever:

(1) There is evidence the award was obtained by fraud;

(2) The recipient ceases to exist or becomes legally incapable of performing its responsibilities under the financial assistance award; or
(3) There is a serious mismanagement or misuse of financial assistance award funds necessitating immediate action.

Clause 24 - Suspension and Termination (10 CFR 600.29)

(a) Suspension and Termination for Cause. DOE may suspend or terminate an award for cause on the basis of:

(1) a noncompliance determination under 600.121 or 600.28;

(2) an immediate debarment or debarment of the awardee under 600.27.

(b) Notification Requirements. Except as provided in 600.121(c) or 600.28, before suspending or terminating a award for cause, DOE shall mail to the awardee (by certified mail, return receipt requested) a separate written notice in addition to that required by 600.121(a) or 600.28(a) at least ten days prior to the effective date of the suspension or termination. Such notice shall include, as appropriate:

(1) The factual and legal bases for the suspension or termination;

(2) The effective date or dates of the DOE action;

(3) If the action does not apply to the entire award, a description of the activities affected by the action;

(4) Instructions concerning which costs shall be allowable during the period of suspension, or instructions concerning allowable termination costs, including in either case, instructions concerning any subgrants or contracts;

(5) Instructions concerning required final reports and other closeout actions for terminated awards (see §600.123);

(6) A statement of the awardee’s right to appeal a termination for cause pursuant to 600.26; and

(7) The dated signature of a DOE Contracting Officer.

(c) Suspension

(1) Unless DOE and the awardee agree otherwise, no period of suspension shall exceed 90 days.

(2) DOE may cancel the suspension at any time, up to and including the date of expiration of the period of suspension, if the awardee takes satisfactory corrective action before the expiration date of the suspension or gives DOE satisfactory evidence that such corrective action will be taken.
(3) If the suspension has not been canceled by the expiration date of the period of suspension, the awardee shall resume the suspended activities or project unless, prior to the expiration date, DOE notifies the awardee in writing that the period of suspension shall be extended consistent with paragraph (c)(1) of this section or that the award shall be terminated.

(4) As of the effective date of the suspension, DOE shall withhold further payments and shall allow new obligations incurred by the awardee during the period of suspension only if such costs were authorized in the notice of suspension or in a subsequent letter.

(5) If the suspension is canceled or expires and the award is not terminated, DOE shall reimburse the awardee for any authorized allowable costs incurred during the suspension and, if necessary, may amend the award to extend the period of performance.

(d) Termination by Mutual Agreement. In addition to any situation where a termination for cause pursuant to 600.121 or 600.28 is appropriate, either DOE or the awardee may initiate a termination of an award (or portion thereof) as described in this paragraph. If the awardee initiates a termination, the awardee must notify DOE in writing and specify the awardee's reasons for requesting the termination, the proposed effective date of the termination, and, in the case of a partial termination, a description of the activities to be terminated, and an appropriate budget revision. DOE shall terminate an award or portion thereof under this paragraph only if both parties agree to the termination and the conditions under which it shall occur. If DOE determines that the remaining activities under a partially terminated award would not accomplish the purpose for which the award was originally awarded, DOE may terminate the entire award.

(e) Effect of Termination. The awardee shall incur no new obligations after the effective date of the termination of an award (or portion thereof), and shall cancel as many outstanding obligations as possible. DOE shall allow full credit to the awardee for the DOE share of noncancellable obligations properly incurred by the awardee prior to the effective date of the termination.

(f) Subgrants. Awardees shall follow the policies and procedures in this section and in 600.121 or 600.28 for suspending and terminating subgrants.

Clause 25 - Patents Rights (Small business Firm or Nonprofit Organization) (10 CFR 600.33 (b)(1))

(a) Definitions

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protected under Title 35 of the United States Code (USC).

(2) "Subject invention" means any invention of the grantee conceived or first actually reduced to practice in the performance of work under this grant.
(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Pub. L. 85-536 (15 USC 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standard for small business concerns involved in Government procurement, contained in 13 CFR 121.3-8, and in subcontracting, contained in 13 CFR 121.3-12, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 USC 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 USC 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(7) "Patent Counsel" means the Department of Energy (DOE) patent counsel assisting the DOE contracting activity.

(b) Allocation of Principal Rights. The grantee may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 USC 203. With respect to any subject invention in which the grantee retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure; Election of Title and Filing of Patent Applications by Grantee

(1) The grantee will disclose each subject invention to the Patent Counsel (with notification by the Patent Counsel to the Contracting Officer) within two months after the inventor discloses it in writing to grantee personnel responsible for the administration of patent matters. The disclosure to the Patent Counsel shall be in the form of a written report and shall identify the grant under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention.
The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Patent Counsel, the grantee will promptly notify the Patent Counsel of the acceptance of any manuscript describing the invention or of any on sale or public use planned by the grantee.

(2) The grantee will elect in writing whether or not to retain title to any invention by notifying the Patent Counsel within twelve months of disclosure to the grantee; provided that in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title terminates sixty days prior to the end of the statutory period.

(3) The grantee will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The grantee will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Patent Counsel, election, and filing, may, at the discretion of the Patent Counsel be granted.

(d) Conditions When the Government May Obtain Title

(1) The grantee will convey to DOE, upon written request, title to any subject invention:

(i) if the grantee fails to disclose or elect the subject invention within the times specified in (c) above, or elects not to retain title.

(ii) In those countries in which the grantee fails to file patent applications within the times specified in (c) above; provided, however, that if the grantee has filed a patent application in a country after the times specified in (c) above but prior to this receipt of the written request of the Patent Counsel, the grantee shall continue to retain title in that country; or

(iii) In any country in which the grantee decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a Patent on a subject invention.
(e) **Minimum Rights to Grantee**

(1) The grantee will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the grantee fails to disclose the subject invention within the times specified in (c) above. The grantee's license extends to its domestic subsidiaries and Task Force members, if any, within the corporate structure of which the grantee is a part and includes the right to grant sublicenses of the same scope to the extent the grantee was legally obligated to do so at the time the grant was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the grantee's business to which the invention pertains.

(2) The grantee's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 10 CFR 781. This license will not be revoked in that field of use or the geographical areas in which the grantee has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of DOE to the extent the grantee, its licensees, or its domestic subsidiaries or Task Force members have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, DOE will furnish the grantee a written notice of its intention to revoke or modify the license, and the grantee will be allowed thirty days (or such other time as may be authorized by DOE for good cause shown by the grantee) after the notice to show cause why the license should not be revoked or modified. The grantee has the right to appeal, in accordance with 10 CFR 781, any decision concerning the revocation of modification of its license.

(f) **Grantee Action to Protect Government's Interest**

(1) The grantee agrees to execute or to have executed and promptly deliver to the Patent Counsel all instruments necessary to:

(i) Establish or confirm the rights the Government has throughout the world in those subject inventions for which the grantee retains title, and

(ii) Convey title to DOE when requested under (d) above and to enable the Government to obtain patent protection throughout the world in that subject invention.
(2) The grantee agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the grantee each subject invention made under this grant in order that the grantee can comply with disclosure provisions of (c) above and to execute all papers necessary to file patent applications on subject inventions. The disclosure format should require, as a minimum, the information requested by (c) (1) above. The grantee shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The grantee will notify the Patent Counsel of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The grantee agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the grant) awarded by the Department of Energy. The Government has certain rights in this invention.

(5) The grantee agrees to:

(i) Provide a report prior to the closeout of the grant listing all subject inventions;

(ii) Provide notification of all contracts and subgrants under the grant for experimental, developmental, demonstration, or research work, the identity of the patent rights clause therein, and copy of each such contract or subgrant upon request;

(iii) Provide promptly a copy of the patent application, filing date, serial number, and patent number and issue date for any subject invention in any country in which the grantee has applied for a patent.

(g) **Contracts and Subgrants Under the Grant**

(1) The grantee will include this clause, suitably modified to identify the parties, in all contracts and subgrants under the grant, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or a domestic nonprofit organization. The contractor or subgrantee will retain all rights provided for the grantee in this clause, and the grantee will not, as part of the consideration for awarding the contract or subgrant, obtain rights in the contractor's or subgrantee's subject inventions.
(2) The grantee will include in all other contracts or subgrants under the grant, regardless of tier, for experimental, development, demonstration, or research work the patent rights clause of 41 CFR 9-9.107-5(a) or 41 CFR 9-9.107-6, as appropriate, modified to identify the parties.

(3) In the case of a contract or subgrant under the grant at any tier, DOE, the contractor or subgrantee, and the grantee agree that the mutual obligations of the parties created by the clause constitute a contract between the contractor or subgrantee and DOE with respect to those matters covered by this clause.

(h) **Reporting on Utilization of Subject Inventions.** The grantee agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the grantee or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the grantee, and such other data and information as DOE may reasonably specify. The grantee also agrees to provide additional reports as may be requested by DOE in connection with any march-in proceeding undertaken by DOE in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the grantee, its licensee or assignee to be privileged and confidential and is so marked, DOE agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) **Preference for United States Industry.** Notwithstanding any other provision of this clause, the grantee agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by DOE upon a showing by the grantee or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) **March-in Rights.** The grantee agrees that with respect to any subject invention in which it has acquired title, DOE has the right in accordance with the procedures in OMB Circular A-124 to require the grantee, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the grantee, assignee, or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if DOE determines that:

(1) Such action is necessary because the grantee or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the grantee, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by federal regulations and such requirements are not reasonably satisfied by the grantee, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Grants to Nonprofit Organizations. If the grantee is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of DOE, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee will be subject to the same provisions as the grantee);

(2) The grantee may grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain pre-market clearance, unless on a case-by-case basis, DOE approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(3) The grantee will share any royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the grantee with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.
(1) Communication. The DOE central point of contact for communications or matters relating to this clause is the Patent Counsel.

Clause 26 - Rights in Technical Data (Short Form)  (10 CFR 600.33(b)(3)

(a) Definitions. The definitions of terms set forth in DEAR 927.401 apply to the extent these terms are used herein.

(b) Allocation of Rights

(1) The Government shall have:

(i) Unlimited rights in technical data first produced or specifically used in the performance of this grant.

(ii) The right of the Contracting Officer or his representatives to inspect at all reasonable times up to three years after final payment under this grant all technical data first produced or specifically used in the grant (for which inspection the grantee or its contractor or subgrantee shall afford proper facilities to DOE); and

(iii) The right to have any technical data first produced or specifically used in the performance of this grant delivered to the Government as the Contracting Officer may from time-to-time direct during the progress of the work, or in any event as the Contracting Officer shall direct upon completion or termination of this grant.

(2) The grantee shall have: The right to use for its private purposes, subject to patent, security, or other provisions of this grant, technical data it first produces in the performance of this grant provided the date requirements of this grant have been met as of the date of the private use of such data. The grantee agrees that to the extent it receives or is given access to proprietary data or other technical, business of financial data in the form of recorded information from DOE or a DOE contractor or subcontractor, the grantee shall treat such data in accordance with any restrictive legend contained thereon, unless use is specifically authority by prior written approval of the Contracting Officer.

(c) Copyrighted Material

(1) The grantee agrees to and does hereby grant to the Government and to others acting on its behalf:
(i) A royalty-free, nonexclusive, irrevocable, world-wide license for Governmental purposes to reproduce, distribute, display, and perform all copyrightable material first produced or composed in the performance of this grant by the grantee, its employees or any individual or concern specifically employed or assigned to originate and prepare such material and to prepare derivative works based thereon;

(ii) A license as aforesaid under any and all copyrighted or copyrightable work not first produced or composed by the grantee in the performance of this grant but which is incorporated in the material furnished under the grant, provided that such license shall be only to the extent the grantee now has, or prior to completion or closeout of the grant, may acquire the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(2) The grantee agrees that it will not knowingly include any material copyrighted by others in any written or copyrightable material furnished or delivered under this grant without a license as provided for in paragraph (c)(1)(ii) of this section, or without the consent of the copyright owner, unless it obtains specific written approval of the Contracting Officer for the inclusion of such copyright material.

Clause 27 - Authorization and Consent (10 CFR 600.33(b)(5))

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this grant or any part hereof or any amendment hereto or any contract hereunder (including all lower-tier subcontracts).

Clause 28 - Notice and Assistance Regarding Patent and Copyright Infringement (10 CFR 600.33(b)(6))

The provisions of this clause shall be applicable only if the amount of this Grant exceed $10,000.

(a) The grantee shall report to the Contracting Officer, promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this Grant of which the grantee has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this Grant or out of the use of any supplies furnished or work or services performed hereunder, the grantee shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the grantee pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the grantee has agreed to indemnify the Government.

(c) This clause shall be included in all contracts and subgrants under the Grant.
Clause 29 - Reporting Royalties (10 CFR 600.33(c)(2))

If this Grant is in an amount which exceeds $10,000 and if any royalty payments are directly involved in the Grant or are reflected in the amount of the Grant award, the grantee agrees to report in writing to the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) during the performance of this Grant, and prior to its completion or closeout, the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this Grant together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which the royalties are to be paid. The approval of DOE of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity, or scope of, or title to, any patent under which a royalty or payments are made.

(d) Subgrants and Contracts Under Grants or Subgrants. The grantee shall include the applicable patent rights and rights in technical data clauses and the clauses of paragraphs (b)(5), (b)(6), and (c) of this section, as applicable, in any subgrant or contract.

Clause 30 - Government-Wide Debarment and Suspension (10 CFR 600.435)

Subawards to Debarred and Suspended Parties

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal contracts or financial assistance awards.

Clause 31 - Certification Regarding Lobbying (10 CFR 601)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Clause 32 - Changes

(a) Changes in the Project Management Plan Scope of Work may be made from time to time only by mutual agreement of the parties.

(b) The date for completion of the Project, the total Project estimated cost, and the Project objectives may be altered only by formal modification of this Agreement.

(c) Each party agrees to use its best efforts to accommodate in good faith any change or changes requested by the other party.

(d) The Participant, as the Project Manager, has the responsibility to maintain budget goals in the interest of the Contracting Officer’s Technical Representative and Participant.

Clause 33 - Officials Not to Benefit (April 1984)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of the Agreement or to any benefit arising from it. However, this provision does not apply to this Agreement to the extent that this Agreement is made with a corporation for the corporation’s general benefit.
Clause 34 - Order of Precedence

In the event of inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order: (1) Part I, Agreement Articles, (2) Part II, "Project Management Plan," (3) Part IV, Sections A, B, and C, Special and General Provisions, and (4) other provisions of this Cooperative Agreement, whether incorporated by reference or otherwise.


(a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to:

(1) Announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and

(2) Express the amount announced pursuant to subparagraph 1. as percentage of the total costs of the planned acquisition.

(b) The requirements of paragraph a. shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.
PART V
FEDERAL ASSISTANCE REPORTING CHECKLIST