ATOMICS INTERNATIONAL

A DIVISION OF NORTH AMERICAN AVIATION, INC.

~~Wheeler~~ ~~Desk Copy~~ Make a File GEN-8 MOD 1.

INTER-OFFICE LETTERS ONLY

TO: Those Listed ADDRESS:

FROM: L. W. Wheeler ADDRESS: 798

PHONE: 597 DATE: September 6, 1961

SUBJECT: Composite Contract No. AT-11-1-GEN-8 Modification No. 1

Enclosed herewith for your information and files is a copy of the above-referenced contract. This copy incorporates all fifteen supplements to the contract. (file loose)

L W Wheeler

L. W. Wheeler, Chief
Contracts and Proposals

LWW/VAJ/rsp

Enclosure

dc:	J. L. Balderston	790-10
	J. J. Flaherty	797-01
	J. E. Gackle	782-90
	W. W. Henoch	797
	R. K. Holbrook	797
	G. A. Koris	896
	A. B. Martin	730
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	W. L. Clark (4)	898 - G. O.
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CONTRACT NO. AT-11-1-GEN-8

MODIFICATION NO. 1

BETWEEN

THE U. S. ATOMIC ENERGY COMMISSION

AND

NORTH AMERICAN AVIATION, INC.

(AS CORRECTED THROUGH SUPPLEMENT ~~#15~~ #20

DATED AUGUST 18, 1961)

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This AMENDED CONTRACT No. AT-11-1-GEN-8 is entered into this 31st day of March, 1958, effective January 1, 1958 except as hereinafter provided in Article No. XL, between the UNITED STATES OF AMERICA (called the "Government") acting through the U. S. ATOMIC ENERGY COMMISSION (called the "Commission") and NORTH AMERICAN AVIATION, INC. (called the "Contractor"), a corporation existing under and by virtue of the laws of the State of Delaware, with its principal office located at International Airport, Los Angeles, California.

WITNESSETH THAT

WHEREAS, the parties recognize that they have cooperated under Contract No. AT-11-1-GEN-8, effective as of May 1, 1948, and predecessor contract for a period of approximately ten years in a program of research and development related to atomic energy and that it is now mutually desirable to amend Contract No. AT-11-1-GEN-8, as amended, in certain particulars in order to improve the administrative efficiency and effectiveness of the program and to reflect certain changed conditions and circumstances; and

WHEREAS, the parties desire to provide for an extension of the contract performance for a further period of time and to provide for the obligation by the Government from time to time of additional funds for the Contractor's performance hereunder, and

WHEREAS, the parties also recognize that the nature of the research and development and other work hereunder is such that fixed price arrangements are not practicable and that the work must therefore be done on a cost reimbursement and cost plus fixed fee basis; and

WHEREAS, the Commission certifies that this negotiated contract is authorized by and executed under the Atomic Energy Act of 1954 as amended and is in the interests of the common defense and security of the United States,

NOW THEREFORE, subject to all the applicable provisions of the Atomic Energy Acts of 1946 and 1954, the parties agree that Contract No. AT-11-1-GEN-8 as previously amended is further amended on the effective date hereinabove set forth to provide as follows:

ARTICLE I - TERM OF CONTRACT

This amended contract shall continue in full force and effect through September 30, 1962, in accordance with its provisions unless sooner terminated as provided in this agreement or unless further extended by mutual agreement.

ARTICLE II - NATURE AND SCOPE OF WORK

1. The Contractor shall furnish all necessary labor, engineering, materials, services, supplies, utilities, and facilities (except such as the Government has furnished or may hereafter elect to furnish under the terms of this contract), to conduct and shall conduct from time to time, in accordance with the terms and provisions of this contract, projects of research, development and other work, as provided for in the annual Program Letters and Financial Plans as described in Article III as such letters and plans may be amended or changed from time to time in accordance with this contract. Such projects may include, but need not be limited to, the following:

   a. Study and development of reactors and reactor auxiliary systems, reactor materials, fuels and fuel elements, components and designs, which shall, if possible be oriented to implement, coordinate with or supplement other studies and activities which are now in progress or may be undertaken by the Commission in the same general fields;

   b. Investigation, study, and evaluation of reactor technology and use, both in the United States and foreign countries;

   c. Furnishing to the Commission information, evaluation studies and reports, including necessary progress, financial, and other special and technical reports on work performed under this contract;

   d. Necessary design, manufacture, assembly, testing and operation of experimental equipment, auxiliary machinery, reactors and reactor components;

   e. Furnishing to the Commission of information and reports to the extent mutually agreed upon in writing on work performed by the Contractor in anticipation of work or individual projects under this contract which may be of interest to the Commission;

   f. Furnishing of assistance and consultation to the Commission and its laboratories on scientific and technical problems in the field of atomic energy for which Contractor's personnel or facilities are adapted,

   g. Continuation of the Organic Moderated Reactor Program previously carried on under Contract No. AT(04-3)-88 between the parties; continuation of said work under the provisions of this contract shall be effective January 1, 1958.

h. Continuation of the Sodium Graphite Reactor Project previously carried on under Contract No. AT(04-3)-49 between the parties; continuation of said work under the provisions of this contract shall be effective July 1, 1958.

i. Construction incidental to the work, as may be approved by the Commission.

2. The Contractor shall furnish all necessary labor, engineering, materials, services, supplies, utilities, and facilities (except such as the Government has furnished or may hereafter furnish under the terms of this contract) to conduct and shall conduct, in accordance with the terms and provisions of this contract, work in connection with the Piqua Power Demonstration Reactor Project as follows:

a. Research and development work as set forth in the annual Program Letters and Financial Plans in connection with the Piqua Power Demonstration Reactor Project including the preparation of the preliminary design. This preliminary design shall conform to the Commission's reactor safety requirements, and conceptual design criteria which criteria are set out in Appendix B to this contract, which appendix is incorporated by reference and made a part hereof, and this preliminary design shall be subject to approval by the Commission within sixty days from the date of submission by the Contractor.

b. The work and services described in Appendix C to this contract, which appendix is attached hereto and made a part hereof; provided, however, that the Contractor shall not be required to perform such work nor shall the Government be obligated to reimburse the Contractor for its costs incurred in performing such work except to the extent that the Contracting Officer has given the Contractor notice to proceed. Notice to proceed shall be given by the Contracting Officer within sixty days after receipt by the Commission of the preliminary design described in Section 2. a. of this Article II, but in no event later than the effective date of Contract No. AT(11-1)-653. In the event the Contracting Officer does not give notice to proceed with all of the work and services within the time specified, an equitable adjustment shall be made in the amount obligated in Section 4 of Article V hereof, and the contract shall be modified accordingly.

c. The design of the nuclear power plant and related facilities will conform to sound engineering and power plant practices.

3. The work to be performed under this contract by the Contractor shall be conducted at Contractor owned or operated facilities located in the Southern California area or at such other locations as may be approved by the Contracting Officer. Contractor agrees that it will not without approval of the Contracting Officer rearrange or relocate any facilities or projects hereunder, the initial installation costs of which are or have been directly charged in whole or in part under this contract or predecessor contract W-35-038-ac-14191 if the estimated costs of any such individual rearrangement or relocation under this contract will directly or indirectly exceed $5,000.

Contractor agrees to notify the Contracting Officer promptly of any proposed changes in the general location of its performance of work hereunder and of any proposed rearrangement or relocation of any facility or project which requires approval under the preceding paragraph.

This paragraph shall not apply to the place of performance of work by any subcontractor hereunder nor require any subcontract or purchase order approvals in addition to those elsewhere required under the contract.

ARTICLE III - ADMINISTRATION OF THE PROGRAM

1. Contractor shall be responsible, to the best of its ability, in accordance with the provisions of this contract for the administration of the work covered by this contract and shall do all other things required for the efficient and successful prosecution of the work.

2. The Commission shall be responsible for the general supervision and direction of the work under this contract and for the establishment of the specific projects of research, development and other work to be undertaken by the Contractor which shall be accomplished in the following manner:

a. Prior to April 15th of each year within the term of this contract (or such other date as may be agreed upon), the Contractor shall furnish to the Commission a suggested program of work to be performed under this contract during the next two year period beginning upon the following July 1, together with an estimate of the costs to be

incurred in the performance of such work in such format and detail as the Contracting Officer may require.

b. Upon or prior to July 1 of each year within the term of this contract, or within a reasonable time thereafter, the Commission shall furnish to the Contractor an Annual Program Letter and Financial Plan which directs the Contractor to perform all or that portion of the suggested program of work for the first year of such two year period approved by the Commission together with such additional work as the Commission and Contractor may have agreed upon. Said Program Letter and Financial Plan may, at the option of the Commission establish specified budgetary ceiling levels on an annual or project basis for the individual projects or combinations thereof as set forth therein.

c. The established specific or combination budgetary ceiling levels of the Annual Program Letter and Financial Plan established by the Commission under paragraph b. above may be revised at any time by mutual agreement of the parties and also may be revised unilaterally by the Commission (1) to reflect anticipated or actual cost underruns or overruns therein, not incident to a material change under Article VII entitled "Changes and Adjustment of Fees," or (2) in futherance of and incident to any termination directed by the Government under Article XXXI entitled "Termination". Changes to each Annual Program Letter and Financial Plan shall be numbered in sequence.

3. In addition to any other requirement of this contract, the Contractor shall also have the responsibility to adhere to and shall keep its costs incurred in performing the work set forth in the Annual Program Letter and Financial Plans within any budgetary ceiling levels specifically established and set forth in the applicable Annual Program Letters and Financial Plans or amendments thereto.

4. It is agreed that the provisions of Sections 2 and 3 of this article are not applicable to the work to be performed under Section 2. b. of Article II.

ARTICLE IV - CONSIDERATION

For performance of the work hereunder by the Contractor the Government shall pay to the Contractor (a) reimbursable costs in accordance with Article VIII entitled "Reimbursable Costs", and (b) such

negotiated fixed fees as may be hereinafter established or revised from time to time. Payment for such reimbursable costs and of the fixed fees, as herein provided, shall constitute complete compensation for the Contractor's performance hereunder including profit and all items or kinds of costs and expenses not otherwise reimbursable under the terms of this contract.

ARTICLE V - OBLIGATION OF FUNDS AND FIXED FEE

1. a. The total Commission obligation with respect to reimbursement of costs incurred in the performance by the Contractor of its undertakings under Sections 1. and 3. of Article II of this contract and the payment of the Contractor's fixed fee therefor is $226,154,948.00.

   b. Revised Obligation of Funds. The Contracting Officer may by written notice to the Contractor revise the amount of funds obligated under Section 1. a. of this Article V, and may from time to time further revise any previously revised obligation of funds, provided, however, that the Contracting Officer may not under this paragraph b. reduce the total amount of funds obligated under Section 1. a. of this Article V below an amount equal to the sum of (a) the funds obligated hereunder in Government fiscal years prior to the current Government fiscal year to the extent such funds are required to reimburse the Contractor for its expenditures and commitments incurred in such prior fiscal years plus (b) the total of the currently established specific budgetary ceiling levels of the Annual Program Letter and Financial Plan existing at the time and relating to the work under Section 1 of Article II plus (c) the funds obligated pursuant to the Commission's obligations under Section 4 of Article VIII.

2. The total Commission obligation with respect to reimbursement of costs incurred in the performance by the Contractor of its undertakings under Section 2. a. of Article II of this contract is $3,500,000.00.

3. In addition to previous total fees paid for performance of the work described in Section 1, Section 2. a. and Section 3 of Article II in accordance with prior agreements, the Contractor shall be paid a fixed fee for such work as follows:

   a. For work to be performed during the period from July 1, 1958 through June 30, 1959, the amount of $1,170,556.00 based on an adjusted estimated cost for fee purposes of $29,685,204.00 in accordance with the Memorandum of Fee Agreement of July 1, 1957.

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b. For work to be performed during the period from July 1, 1959 through June 30, 1960, the amount of $1,318,195.00 based upon an estimated cost for fee purposes of $31,899,832.00 in accordance with the Memorandum of Agreement on Fees, effective July 1, 1959.

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c. For work to be performed during the period from July 1, 1960 through June 30, 1961, the amount of ~~$1,288,976.00~~ 1,378,991.00 based upon an estimated cost for fee purposes of 34,070,851.00 ~~$30,856,279.00~~, in accordance with the Memorandum of Agreement on Fees, effective July 1, 1960.

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d. For work to be performed during the period from July 1, 1961 through June 30, 1962, the amount of ~~$1,739,256.00~~ 1,779,256.00 based upon an estimated cost for fee purposes of 49,941,142 ~~$48,026,987.00~~ in accordance with the Memorandum of Agreement on Fees, effective July 1, 1961.

4. The total Commission obligation with respect to reimbursement of cost incurred in the performance by the Contractor of its undertakings under Section 2. b. of Article II of this contract and the payment of the Contractor's fixed fee therefor is $1,616,310.00.

5. <u>Limit on Total Amount of Reimbursable Costs</u>. Irrespective of and in addition to any other limitations contained elsewhere in this contract, payments on account of reimbursable costs shall not in the aggregate at any time exceed the total amount of funds currently obligated hereunder.

6. <u>Notice of Costs Approaching Funds Obligated - Contractor Excused Pending Increase When Obligation Reached</u>. The Contractor shall notify the Contracting Officer in writing when the aggregate of expenditures and outstanding commitments reimbursable under this contract is equal to 90 per cent (or such other greater or lesser percentage as the Contracting Officer may from time to time establish by written notice to the Contractor) of the annual amount of funds currently obligated under the contract and shall also give notice in like manner when expenditures and commitments under and in furtherance of any specifically controlled project with a ceiling level set forth in the Annual Program Letter and Financial Plan or changes thereto equals 90 per cent (or such greater or lesser percentage thereof as the Contracting Officer may from time to time establish by written notice to the Contractor) of the said individual project ceiling amount. When such Contractor expenditures and commitments under all projects equals 100 per cent of the annual funds currently obligated under the contract or in furtherance of a controlled project equals 100

per cent of any individual ceiling level or levels established for any controlled project the Contractor shall not be required to incur further expenses or obligations under this contract or in furtherance of a controlled project as is appropriate unless and until the Commission shall first agree in writing to reimburse the Contractor for such further work, and shall certify to the Contractor that funds necessary therefor have been obligated, nor shall the Commission be required to reimburse the Contractor for expenses beyond the annual funds currently obligated under the contract or a controlled project as is appropriate.

For the sole purpose of computing the notice and ceiling point under this paragraph, Contractor's fees suitably prorated in accordance with its regular accounting practice consistently followed shall be computed as an item of cost.

The provisions of this Section 6 shall not apply to the work provided for in Section 2. b. of Article II hereof.

7. Government's Right to Terminate Not Affected. The giving of any notice by either party under this Article shall not be construed to waive or impair any right of the Government to terminate the contract under the provisions of the Article entitled "Termination".

8. Cost Information. The Contractor shall maintain current cost information adequate to reflect the cost of performing the work under this contract at all times while the work is in progress, and shall prepare and furnish to the Government such written estimates of cost and information in support thereof as the Contracting Officer may request. The Contractor shall notify the Commission whenever it appears that the total cost of any individual project will substantially deviate from the specified budgetary ceiling level currently set forth in the Annual Program Letter and Financial Plan.

9. Correctness of Estimates Not Guaranteed. It is understood that neither the Government nor the Contractor guarantees the correctness of any estimates of cost or estimate of time for performance of the work under this contract, and that there shall be no adjustment in the amount of the Contractor's fixed fee by reason of errors in the computation of estimates or differences between such estimates and the actual cost or time for performance of the work.

ARTICLE VI - ACCOUNTS, RECORDS AND INSPECTION

1. Accounts: The Contractor shall maintain a set of accounts at a mutually agreeable location showing and supporting all allowable costs incurred, revenues earned, fixed fee accruals, and the receipt, use, and disposition of all Government Property coming into the possession of the Contractor under this contract. The system of accounts employed by the Contractor shall be satisfactory to the Commission and in accordance with generally accepted accounting principles. The Contractor agrees to use its best efforts to give reasonable advance notice to the Contracting Officer of any material changes in its accounting systems applicable to its costs hereunder.

2. Inspection and Audit of Accounts and Records: All books of account and records relating to this contract shall be subject to inspection and audit by the Commission at all reasonable times, and the Contractor shall afford the Commission proper facilities for such inspection and audit.

3. Audit of Subcontractors' Records: The Contractor also agrees, with respect to any subcontracts (including lump-sum or unit-price subcontracts) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to conduct an audit of the costs of the subcontract in a manner satisfactory to the Commission or to have the audit conducted by the next higher tier subcontractor in a manner satisfactory to the Contractor and the Commission, except where the Commission upon the recommendation of the Contractor elects to waive such audit or to approve other arrangements for the conduct of the audit.

4. Disposition of Records: Except as otherwise directed by the Contracting Officer or agreed upon by the Government and the Contractor, all financial and cost reports, books of account and supporting documents, and other data evidencing costs allowable and revenues accrued under this contract in the possession of the Contractor relating to this contract shall be preserved by the Contractor for a period of six (6) years after final settlement of the contract or otherwise disposed of in such manner as may be agreed upon by the Government and the Contractor.

5. Reports: The Contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this contract as the Contracting Officer may from time to time require.

6. Inspections: The Commission shall have the right to inspect the work and activities of the Contractor under this contract at such time and in such manner as it shall deem appropriate.

7. Subcontracts: The Contractor further agrees to require the inclusion of provisions similar to those in paragraphs 1. through 6. of this Article in all subcontracts of any tier negotiated hereunder (including lump-sum or unit-price subcontracts) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor, provided however, that only paragraph 6. of this Article shall be required to be inserted into or below the first firm fixed price subcontract of any tier hereunder.

ARTICLE VII - CHANGES AND ADJUSTMENT OF FEES

1. The Contracting Officer may at any time and without notice to the sureties, if any, issue written directions to the Contractor by amendments or changes to the Program Letter and Financial Plan or otherwise requiring additional work within the general scope of this contract or directing the omission of or variation in work covered by the Program portion of the Annual Program Letters and Financial Plans. If any such direction, amendment or change results in a material change in the amount or character of any individual work project therein, an equitable adjustment of the fixed fee or fees, time of performance of the contract or any project therein and in any of the specific Financial Plan budgetary ceiling levels, if indicated, shall be made in accordance with the agreement of the parties and the contract or Program Letter and Financial Plan shall be modified in writing accordingly. Any claim by the Contractor for an adjustment under this provision must be asserted in writing within 30 days from the date of receipt by the Contractor of the notification of any such direction, amendment or change unless the Contracting Officer grants a further period of time. A failure to agree on an equitable adjustment under this provision shall be deemed to be a dispute within the meaning of Article XIX entitled "Disputes".

2. Nothing contained in this Article shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the requirements of any such direction hereunder subject however to the limitations contained in Article V entitled "Obligation of Funds and Fixed Fee".

3. It is recognized that the Contractor has by mutual agreement undertaken, is performing, and may in the future from time to time undertake performance of certain additional projects under this contract on a cost reimbursement only basis without fee therefor. Accordingly it is agreed that any changes, directions or amendments by the Contracting Officer under this Article to any such mutually agreed upon non fee project shall not be construed to give rise to any claim for fee thereon by the Contractor. It is also agreed that the Contractor shall not, without its consent, be required to perform any new project under this contract upon a no fee basis by reason of the operation of this Article.

4. If the Contracting Officer directs changes in (i) the final design of the nuclear steam plant and related facilities, or other work to be performed by the Contractor under Section 2. b. of Article II, in accordance with Section 1 of this Article VII, or (ii) the work to be performed under Contract No. AT(11-1)-653, in accordance with Article V of said contract, and if such changes require an increase or decrease in the work to be performed under Section 2. a. of Article II hereof or in the time required for its performance, then an equitable adjustment of the schedule and of the amount obligated under Section 2. a. of Article V hereof shall be made in accordance with the agreement of the parties, and this contract shall be modified in writing accordingly.

5. If the Contracting Officer directs changes in (i) the preliminary design of the nuclear steam plant and related facilities or other work to be performed by the Contractor under Section 2. a. of Article II hereof, in accordance with Section 1 of this Article VII, or (ii) the work to be performed under Contract No. AT(11-1)-653, in accordance with Article V of said contract, and if such changes require an increase or decrease in the work to be performed under Section 2. b. of Article II hereof or in the time required for its performance, then an equitable adjustment of the schedule and of the amounts obligated shall be made in accordance with the agreement of the parties, and this contract shall be modified in writing accordingly.

ARTICLE VIII - REIMBURSABLE COSTS

1. Basis for Determination of Allowable Costs: The reimbursable costs under this contract shall be (a) the direct costs which are actually incurred by the Contractor and which are necessary

or incident to performing the work under this contract and (b) the indirect expenses, not in duplication of any direct costs, which are incurred by the Contractor and are properly allocable to performance of the work under this contract. All reimbursable costs shall be in accordance with generally accepted accounting principles and practices consistently applied by the Contractor and shall include, without limitation on the generality of the foregoing, the items described as allowable in paragraph 2. below, but shall not in any event include the items described as unallowable in paragraph 3. below, except to the extent indicated therein. Failure to mention any item of cost or overhead expense in this Article is not intended to imply that it is either allowable or unallowable. Provided, however, that if the Commission considers the allocation of any indirect cost as creating a major inequity with respect to proper allocation to the performance of the work under this contract, it shall so notify the Contractor in writing with the reasons therefor, whereupon such question unless disposed of by mutual agreement of the parties, shall be disposed of in accordance with the provisions of Article XIX, Disputes.

2. Examples of Allowable Costs: The following are examples of items of cost and overhead expenses of the Contractor which are allowable under this contract to the extent indicated:

a. Allocation of bond and insurance expenses of the Contractor upon the basis of reimbursement which is accepted by the Department of Air Force subject to the provisions of Section 1. of this Article VIII.

b. Allocations of Corporate Office expenses of the Contractor upon the basis of reimbursement which is accepted by the Department of Air Force, subject to the provisions of Section 1. of this Article VIII.

c. Materials, supplies, and plant and equipment, including freight, transportation, material handling, inspection, storage, salvage, and other usual expenses incident to the procurement and use thereof, subject to approvals required under any other provisions of this contract.

d. Patents, purchased designs, and royalty payments to the extent approved by the Contracting Officer.

e. Repair and replacement of Government-owned Property and the restoration and clean-up of site and facilities, to the extent provided in the contract or as directed and approved by the Contracting Officer.

f. Subcontracts and purchase orders approved by the Contracting Officer when approval is required under any other article of this contract.

g. Taxes, fees, and charges levied by public agencies which the Contractor is required by law to pay, except those which are excluded by other provisions of this contract.

h. Utility services, such as communication, power, gas, and water, subject to approvals required under any other provision of this contract.

i. Labor (whether as wages, salaries, benefits, awards, or other compensations under any other name), recruiting of personnel (including "help wanted" advertising), retirement, group health, accident and life insurance plans, travel (including subsistence during travel and rental allowances) and the transportation of personnel, household goods and effects, operation of restaurants, cafeterias, dispensaries, hospitals, facilities for banking, housing and transportation in accordance with Contractor's consistently applied company-wide policies and practices existing on or before January 1, 1958 and changes thereto submitted to and not disapproved by the Contracting Officer; provided, however, that the cost of bonuses and similar compensation and the cost of retirement plans shall be allowable hereunder only to the same extent that such costs are generally reimbursed under CPFF contracts between the Contractor and the United States Government, acting through the Department of the Air Force. Subsequent to January 1, 1958, the following items of cost of the Atomics International Division shall, however, be allowable as direct or indirect costs only to the extent indicated:

(1) Wages and salaries under job classifications established specifically for use in connection with work under this contract to the extent that such job classifications have been approved by the Contracting Officer.

(2) The premium portion of overtime pay for all extended work weeks chargeable as a direct cost to this contract

to the extent such extended work weeks are approved by the Contracting Officer.

(3) The premium portion of overtime pay for all extended work weeks chargeable as an indirect cost to this contract to the extent (i) such extended work weeks are approved by the Contracting Officer or (ii) the annual total of overtime hours of unapproved extended work weeks is not in excess of 5% of the annual total of regularly scheduled indirect labor hours.

(4) Casual overtime in excess of 20 hours beyond the scheduled work week of any employee, to the extent approved by the Contracting Officer. Casual overtime is (i) work in excess of the basic work week (or in excess of an approved extended work week) which cannot be regularly scheduled in advance, or (ii) regularly scheduled work in excess of 40 hours per week for a period of four consecutive weeks or less.

(5) As of August 31 of each year, or at such other date as may be mutually agreed upon, the Contractor shall submit to the Contracting Officer a list of all employments, promotions, reclassifications or other personnel actions taken in the previous 12 months in the Atomics International Division which involve salary rates of more than $20,000.00 per year; and that portion of any such salary in excess of $20,000.00 per year is reimbursable under this contract only to the extent such personnel action is approved by the Contracting Officer.

j. Expense of litigation, including reasonable counsel fees, incurred in accordance with the articles of this contract entitled "Litigation and Claims", and "Nuclear Hazards Indemnity" and to the extent approved by the Contracting Officer, such other legal, accounting, and consulting fees as are not expressly excluded by other provisions of this contract.

k. Losses and expenses (including settlements made with the consent of the Contracting Officer) sustained by the Contractor in the performance of the work and certified in writing by the Contracting Officer to be just and reasonable, except losses and expenses expressly made unallowable under other provisions of this contract, or compensated

for by insurance or otherwise, or which would have been compensated for by insurance required by law or by written direction of the Contracting Officer.

l. Expert technical and professional assistance, by other than employees of the Contractor, to the extent approved by the Contracting Officer.

m. Security measures of a special nature required solely for the performance of this contract.

n. Membership in trade, business and professional organizations to the extent approved by the Contracting Officer.

o. Contract termination expenses to the extent otherwise provided in the contract.

p. Special tooling, equipment and any items of a capital nature.

q. Items of cost which are not expressly excluded by other provisions of this contract and which are approved in writing by the Contracting Officer as allowable hereunder.

3. Examples of Unallowable Costs: The following are examples of items of cost and overhead expenses of the Contractor which are not allowable except as indicated:

a. Advertising, except "help wanted" advertising or as otherwise approved by the Contracting Officer.

b. Commissions and bonuses (under whatever name) in connection with obtaining or negotiating for a Government contract.

c. Abandonments (1) not in accordance with the requirements and provisions of the Internal Revenue Code of 1954 as amended, and Income Tax Regulations issued thereunder and (2) not approved by the Contracting Officer.

d. Provision for contingency reserves.

e. Contributions and donations.

f. Dividend provisions or payments.

g. Entertainment expense.

h. Fines and penalties, including interest except to the extent incurred by the Contractor through refraining, in accordance with express provisions of the contract or directions of the Contracting Officer, from paying taxes, fees or charges levied by a State or other local public agency upon activities, property or income of the AEC or otherwise incurred at the express direction of the Contracting Officer.

i. Interest on borrowings (however represented), bond discount and expense, and financing charges.

j. Losses from investments and from the sale or exchange of capital assets, and losses on other contracts.

k. Storage of contract records after completion of the work under this contract, irrespective of contractual or statutory requirements regarding the preservation of records.

l. Federal taxes on income and excess profits.

m. Property furnished to the Contractor by the Government except to the extent that cash payment therefor is required pursuant to procedures of the Commission applicable to transfers of such property to the Contractor from others.

n. Bad debts, including expense of collection and provisions for bad debts, arising out of other business of the Contractor.

o. Legal, accounting and consulting services, and related expenses, incurred in connection with organization, reorganization, prosecution of patent infringement litigation, prosecution or defense of anti-trust suits, prosecution of claims against the United States, and contesting actions or proposed actions of the United States.

p. Inter-Divisional transactions and transactions with affiliated or controlled companies, except as approved by the Contracting Officer.

q. Premiums for insurance on the lives of any persons, where the Contractor is the beneficiary directly or indirectly.

r. Premiums for nuclear hazard insurance except as approved by the Contracting Officer.

s. Maintenance, depreciation, and other costs incidental to the Contractor's excess facilities (including machinery and equipment) other than reasonable standby facilities.

t. Selling and distribution activities and related expenses of the Contractor's sales other than the cost of preparing proposals submitted as part of the work under this contract.

u. Taxes and expenses in connection with financing, refinancing or refunding operations, including the listing of securities on exchanges.

v. Major rearrangement or relocation of Contractor-owned facilities, or plant sites, except as approved by the Contracting Officer.

w. General research, except as specifically provided for in the contract.

x. Bonuses, and similar compensation under any other name, which are not consistent with a practice so established as to constitute a condition of employment except as provided in 2. i. above.

y. Except as provided in Section 4. of this Article VIII, depreciation in excess of that calculated by application of the straight-line method, on the basis of expected useful life, to the cost of acquisition of the related fixed assets less estimated salvage or residual value at the end of the expected useful life. Any amount for depreciation in excess of that computed in accordance with the foregoing is not allowable, regardless of whether such excess is included in tax amortization certificates or is acceptable for income tax purposes under liberalized depreciation methods permitted by the Internal Revenue Code and regulations. Amortization or depreciation of unrealized appreciation of values of assets or of assets fully amortized or depreciated on the Contractor's books of account is unallowable.

z. Repair and replacement of Government-owned Property and special tooling, equipment and any items of a capital nature except as otherwise provided in this contract or approved by the Contracting Officer.

aa. Other items made unallowable by other provisions of this contract.

4. In the event of complete termination or upon expiration of this contract, the Commission agrees to pay to the Contractor the difference between the amount of depreciation for which the Contractor has been reimbursed under the contract on a straight-line basis up to the time of such termination or expiration and the amount of depreciation for which the Contractor would have been reimbursed if depreciation charges actually accrued by the Contractor in accordance with Contractor's established depreciation policies and practices consistently applied had been made reimbursable under the contract. If during the period of the contract any facility or equipment on which depreciation is separately computed is lost, destroyed, or disposed of or becomes excess to the needs of the Atomics International Division, the Contractor shall be reimbursed or paid the difference between the amount of depreciation charged to such facility or equipment under this contract on a straight-line basis and that which would have been charged under this contract in accordance with Contractor's established depreciation policies and practices consistently applied. The difference between depreciation charges on a straight-line basis and charges according to Contractor's depreciation practices and policies consistently applied shall be obligated annually.

ARTICLE IX - PAYMENT OF REIMBURSABLE COSTS AND FIXED FEES

1. Installments of Fixed Fee: Ninety percent (90%) (or such greater percentage as the Contracting Officer may, upon request of the Contractor, establish) of the fixed fee for each yearly period of Contractor's performance shall be paid in twelve equal monthly installments and the balance upon completion and acceptance of all the work for each yearly period under this contract.

2. Reimbursement for Costs: Pending audit by the Commission or other designated Government agency and determination of Contractor's reimbursable costs at the close of the Contractor's annual accounting periods, Contractor shall be provisionally reimbursed under this contract for its costs and expenses in such manner annually agreed upon by the parties hereto by exchange of letters. Such provisional reimbursement shall be based to the maximum extent possible upon the latest audit information available and such other pertinent information as the parties may agree upon.

Any such provisional reimbursement shall, until such time as reimbursable costs are determined, be subject to revision from time to time or at any time with either retroactive or prospective application by mutual written agreement of the parties in order to avoid substantial over or under payments to the Contractor.

The parties agree that when Contractor's reimbursable costs are determined hereunder from time to time, there shall be accomplished between the parties such prompt financial adjustments, credits, and/or payments as may be indicated in order to adjust the amounts provisionally paid to the amounts actually due the Contractor.

3. Final Payment: Upon completion of all work and its acceptance by the Government, and upon the furnishing by the Contractor of (a) the release and assignments as hereinafter referred to in paragraph 4. below; (b) a closing financial statement; (c) the accounting for Government-owned property required by the Article entitled "Government Property"; and (d) the final disclosure of any information called for by the Article of this contract entitled "Patents," the Government shall promptly pay to the Contractor the unpaid balance of any reimbursable costs and fixed fees. In arriving at the amount due the Contractor under this Article, there shall be deducted (a) any claim which the Government may have against the Contractor in connection with this contract; and (b) deductions due under the terms of this contract, and not otherwise recovered by or credited to the Government.

4. Assignment and Releases: The Contractor and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract shall execute and deliver at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

a. Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor.

b. Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of the contract, which are not known to the Contractor on the date of the execution of

the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier. Provided, however, that such six year limitation shall not be applicable to claims for which the Contractor is indemnified under Article M, Nuclear Hazards Indemnity.

c. Claims for reimbursement of costs, including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the contract relating to patents.

The Contractor agrees that any refunds, rebates or credits (including any interest thereon) accruing to or received by the Contractor or any assignee which arise out of the performance of this contract and on account of which the Contractor has received reimbursement shall be paid by the Contractor to the Government. The Contractor and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract shall execute and deliver at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of refunds, rebates, allowances, accounts receivable, or other credits (including any interest thereon) arising out of the performance of this contract, in a form and substance satisfactory to the Contracting Officer. Reasonable expenses incurred by the Contractor for the purpose of securing any such refunds, rebates or credits shall constitute a Reimbursable Cost when approved by the Contracting Officer.

5. Discounts: The Contractor shall use its best efforts to take and afford the Government the advantage of all available cash and trade discount, rebates, allowances, credits, salvage, commissions, and bonifications.

6. Revenues: All revenues other than the Contractor's fixed fee or fees, if any, accruing to the Contractor in the performance of the work under this contract, the cost of which work is charged either directly or indirectly to this contract, shall be applied in a like manner in reduction of reimbursable costs under this contract or otherwise credited as the Contracting Officer may direct.

7. Direct Payment of Charges - Deductions: The Government reserves the right, upon ten days' written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned any charges for services, materials, or freight which

otherwise would be reimbursable under this contract. Any payment so made shall discharge the Government and the Contractor of all liability therefor.

ARTICLE X - NUCLEAR HAZARDS INDEMNITY

1. Authority and Definitions. This Article is incorporated into this contract pursuant to the authority contained in Section 170 of the Atomic Energy Act of 1954, as amended (hereinafter called the Act).

   a. The definitions set out in the Act shall apply to this Article.

   b. The term "contract location" means any Commission facility, installation or site at which contractual activity under this contract is being carried on, and any Contractor-owned or controlled facility, installation, or site at which the Contractor is engaged in the performance of contractual activity under this contract.

2. Contractor Financial Protection. Except as hereafter permitted or required in writing by the Commission, the Contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability. The Commission may at any time require in writing that the Contractor provide and maintain financial protection of such a type and in such amount as the Commission shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, provided that the costs of such financial protection will be reimbursed to the Contractor by the Commission.

3. Indemnity Agreement

   a. To the extent that the Contractor and other persons indemnified are not compensated by any financial protection permitted or required by the Commission, the Commission will indemnify the Contractor, and other persons indemnified, against (i) claims for public liability as described in subsection 3. b; and (ii) the reasonable costs of investigating and settling claims, and defending suits for damage for such public liability, provided that the Commission's liability under all indemnity agreements entered into by the Commission under section 170 of the Act, including this contract, shall not exceed $500,000,000, including such reasonable costs, in the aggregate for each nuclear incident irrespective of the number of persons indemnified in connection with this contract.

b. The public liability referred to in subsection 3.a. is public liability which (i) arises out of or in connection with the contractual activity; and (ii) arises out of or results from:

(1) a nuclear incident which takes place at a contract location; or

(2) a nuclear incident which takes place at any other location and arises out of or in the course of the performance of contractual activity under this contract by the Contractor's employees, individual consultants, borrowed personnel or other persons for the consequences of whose acts or omissions the Contractor is liable, provided that such incident is not covered by any other indemnity agreement entered into by the Commission pursuant to section 170 of the Act; or

(3) a nuclear incident which arises out of or in the course of transportation of source, special nuclear, or byproduct materials to or from a contract location; provided such incident is not covered by any indemnity agreement entered into by the Commission with the transporting carrier, or with a carrier's organization acting for the benefit of the transporting carrier, or with a licensee of the Commission, pursuant to section 170 of the Act; or

(4) a nuclear incident which involves items (such as equipment, material, facilities, or design or other data) produced or delivered under this contract, provided such incident is not covered by any other indemnity agreement entered into by the Commission pursuant to section 170 of the Act.

4. Claims Procedure. When the Commission shall determine that the Government will probably be required to make indemnity payments under the provisions of Section 3, the Commission shall have the right to, and shall, collaborate with the Contractor and any other person indemnified in the settlement or defense of any claim and shall have the right (a) to require the prior approval of the Commission for the payment of any claim that the Commission may be required to indemnify hereunder, and (b) to appear through the Attorney General on behalf of the Contractor or other person indemnified in any action brought upon any claim that the Commission may be required to indemnify hereunder, take charge of such action, and settle or defend

any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

5. Licensee Indemnity. The indemnity provided by this Article shall not apply to public liability arising out of or in connection with any activity that is performed at a licensed facility, and that is covered by a Commission indemnity agreement authorized by section 170 of the Act.

6. Indemnity Not Affected by Other Factors. The obligations of the Commission under this Article shall not be affected by any failure on the part of the Contractor to fulfill its obligations under this contract, and shall be unaffected by the death, disability or termination of existence of the Contractor or by the completion, termination or expiration of this contract.

7. Amendments. The parties to this contract enter into this Article upon the condition that this Article may be amended at any time by the mutual written agreement of the Commission and the Contractor and that such amendment may, by its express terms, provide that it will apply to any nuclear incidents which occur thereafter.

8. Relationship to Other Contract Provisions. The provisions of this Article shall not be limited in any way by, and shall be interpreted without reference to, any other provision of this contract (including Disputes); provided, however, that the following provisions of this contract: Covenant Against Contingent Fees; Officials Not to Benefit, Assignment, Examination of Records, and any provisions later added to this contract which, under applicable Federal law, including statutes, Executive Orders and regulations, are required to be included in agreements of the type contained in this Article, shall apply to this Article.

ARTICLE XI - EIGHT HOUR LAWS - OVERTIME COMPENSATION

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor or any subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this Article. The wages of every laborer and mechanic employed by the Contractor or any subcontractor engaged in the performance of this contract shall be computed on a basic day rate of eight

hours per day and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this provision a penalty of five dollars shall be imposed for each laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this provision, and all penalties thus imposed shall be withheld for the use and benefit of the Government: Provided, That this stipulation shall be subject in all respects to the exceptions and provisions of the Eight Hour

Laws as set forth in 40 U.S.C. 321, 324, 325, 325a, and 326, which relate to hours of labor and compensation for overtime.

ARTICLE XIX - CONVICT LABOR

In connection with the performance of work under this contract the Contractor shall not employ any person undergoing sentence of imprisonment at hard labor.

ARTICLE XIXX - NOTICE OF LABOR DISPUTES

Whenever an actual or potential labor dispute is delaying or threatens to delay the performance of the work the Contractor shall immediately notify the Contracting Officer in writing. Such notice shall include all relevant information concerning the dispute and its background.

ARTICLE XIV - WALSH-HEALEY PUBLIC CONTRACTS ACT

To the extent that this contract is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S. Code 35-45), there are hereby incorporated by reference and representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

ARTICLE XV - ADDITIONAL LABOR PROVISIONS

To the extent that Contractor undertakes any work hereunder, which is covered by or subject to the provisions of the Davis-Bacon Act (40 U.S.C. 276a, c.), either with its own forces or by subcontract, after approval thereof as otherwise provided in the contract, it is agreed and understood that the following terms and conditions shall apply to any and all such work and shall be in full force and effect with reference to any such work:

1. Davis-Bacon Act (40 U.S.C. 276a(7))

   a. All mechanics and laborers employed or working directly upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Act (Anti-Kickback) Regulations (29 CFR, Part 3)) the full amounts due at time of payment, computed at wage rates not less than those contained in any wage determination

decision of the Secretary of Labor which may be attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics; and a copy of the wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers.

b. In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph a. above, the Contracting Officer may (1) by written notice to the Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages and (2) prosecute the work to completion by contract or otherwise, whereupon such Contractor and its sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

c. Paragraphs a. and b. above shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act or (2) a subcontract under such prime contract.

2. Apprentices. Apprentices will be permitted to work only under a bona fide apprenticeship program registered with a State Apprenticeship Council which is recognized by the Federal Committee on Apprenticeship, U. S. Department of Labor; or if no such recognized Council exists in a State, under a program registered with the Bureau of Apprenticeship, U. S. Department of Labor.

3. Payroll Records and Payrolls

a. Payroll records will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name and address of each such employee, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. The Contractor will make its employment records available

for inspection by authorized representatives of the Contracting Officer and the U. S. Department of Labor, and will permit such representatives to interview employees during working hours on the job.

b. A certified copy of all payrolls will be submitted weekly to the Contracting Officer. The Contractor will be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification will affirm that the payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the wage determination decision of the Secretary of Labor which may be attached to this contract, and that the classifications set forth for each laborer or mechanic conform with the work he performed.

4. Copeland (Anti-Kickback Act) - Nonrebate of Wages. The regulations of the Secretary of Labor applicable to Contractors and subcontractors (29 CFR, Part 3), made pursuant to the Copeland Act, as amended (40 U.S.C. 276c) and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of this contract by reference. The Contractor will comply with these regulations and any amendments or modifications thereof and will be responsible for the submission of affidavits required of subcontractors hereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions.

5. Withholding of Funds to Assure Wage Payment. There may be withheld from the Contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this contract. In the event of failure to pay any laborer or mechanic all or part of the wages required by this contract, the Contracting Officer may take such action as may be necessary to cause the suspension, until such violations have ceased, of any further payment, advance, or guarantee of funds to or for the Contractor.

6. Subcontracts - Termination. The Contractor agrees to insert paragraphs 1 through 5 above, together with article entitled "Eight-Hour Law" in all subcontracts and further agrees that a breach of any of the requirements of these provisions or Article may be grounds for termination of this contract. The term "Contractor" as used in such articles in any subcontract shall be deemed to refer to the subcontractor except in the phrase "Government Prime Contractor."

ARTICLE XVI - COVENANT AGAINST CONTINGENT FEES

1. Warranty - Termination or Deduction for Breach. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

2. Subcontracts and Purchase Orders. Unless otherwise authorized by the Contracting Officer in writing the Contractor shall cause provisions similar to the foregoing to be inserted in all subcontracts and purchase orders entered into under this contract.

ARTICLE XVII - OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE XVIII - NONDISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be

provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order No. 10925 of March 6, 1961, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

5. The Contractor will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled in whole or in part and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

7. The Contractor will include the provisions of the foregoing paragraphs 1. through 6. in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's

Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order No. 10925 of March 6, 1961, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE XIX - DISPUTES

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Commission, and the decision of the Commission shall, unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence, be final and conclusive: Provided, that if no such appeal to the Commission is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

ARTICLE XX - ASSIGNMENT

Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the Contractor, except as expressly authorized in writing by the Contracting Officer.

ARTICLE XXI - EXAMINATION OF RECORDS

1. The Contractor agrees that the Commission and the Comptroller General of the United States or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records

of the Contractor involving transactions related to this contract until the expiration of three years after final payment under this contract unless the Commission authorizes their prior disposition.

2. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract until the expiration of three years after final payment under the subcontract unless the Commission authorizes their prior disposition. The term "subcontract" as used herein means any purchase order or agreement to perform all or any part of the work or to make or furnish any materials required for the performance of this contract, but does not include (a) purchase orders not exceeding $1,000, (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public, or (c) subcontracts or purchase orders for general inventory items not specifically identifiable with the work under this contract.

3. Nothing in this contract shall be deemed to preclude an audit by the General Accounting Office of any transaction under this contract.

ARTICLE XXII - BUY AMERICAN ACT

The Contractor agrees that there will be delivered under this contract only such unmanufactured articles, materials and supplies (which term "articles, materials and supplies" is hereinafter referred to in this clause as "supplies") as have been mined or produced in the United States, and only such manufactured supplies as have been manufactured in the United States substantially all from supplies mined, produced, or manufactured, as the case may be, in the United States. The foregoing provisions shall not apply (i) with respect to supplies exempted by the Commission from the application of the Buy American Act (41 U. S. C. 10a-d), (ii) with respect to supplies for use outside the United States, or (iii) with respect to the supplies to be delivered under this contract which are of a class or kind determined by the Commission not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) with

respect to such supplies, from which the supplies to be delivered under this contract are manufactured, as are of a class or kind determined by the Commission not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, provided that this exception (v) shall not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. Supplies, title to which vests in the Government under any provision of this contract, shall be deemed to be "delivered" upon such vesting of title.

ARTICLE XXXIII - RENEGOTIATION

If this contract is subject to the Renegotiation Act of 1951, as amended, the following provisions shall apply:

1. This contract is subject to the Renegotiation Act of 1951, as amended (65 Stat. 7; P. L. 764, 83rd Congress) and shall be deemed to contain all the provisions required by section 104 of said Act.

2. The Contractor agrees to insert the provisions of this Article, including this paragraph 2, in all subcontracts specified in section 103 (g) of the Renegotiation Act of 1951; provided, that the Contractor shall not be required to insert the provisions of this Article in any subcontract exempted by or pursuant to section 106 of the Renegotiation Act of 1951, as amended.

ARTICLE XXIV - REQUIRED BONDS AND INSURANCE

The Contractor shall procure and maintain such bonds and insurance as are required by law or by the written directions of the Contracting Officer. The terms of any such bond or insurance policy shall be submitted to the Contracting Officer for approval. In view of the provisions of the Article entitled "Government Property," the Contractor shall not procure or maintain for its own protection any insurance covering loss or destruction of or damage to Government-owned property.

ARTICLE XXV - STATE AND LOCAL TAXES

The Contractor agrees to notify the Contracting Officer of any tax, fee or charge

1. From which the Contractor believes or should reasonably have believed exemption is granted by State or local law, or

2. Which the Contractor believes or should reasonably have believed is invalid under any provision of the Constitution of the United States which is levied or purported to be levied on the Contractor in respect of this contract and to refrain from paying any such tax, fee or charge unless otherwise authorized by the Contracting Officer. The Contractor further agrees to take such steps as may be required by the Contracting Officer to cause any such tax, fee, or charge to be paid under protest, and, if so directed by the Contracting Officer, to cause to be assigned to the Government or its designee any and all rights to the abatement or refund of any such tax, fee, or charge, or to permit the Government to join with the Contractor in any proceedings for the recovery thereof or to sue for recovery in the Contractor's name.

The Government shall save the Contractor harmless from penalties and interest incurred through compliance with this provision.

ARTICLE XXVI - SAFETY, HEALTH, AND FIRE PROTECTION

The Contractor shall take all reasonable precautions in the performance of the work under this contract to protect the health and safety of employees and of members of the public and to minimize danger from all hazards to life and property, and shall comply with all health, safety, and fire protection regulations and requirements (including reporting requirements) of the Commission. In the event that the Contractor fails to comply with said regulations or requirements of the Commission, the Contracting Officer may without prejudice to any other legal or contractual rights of the Commission, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the discretion of the Contracting Officer. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of or in connection with such work stoppage.

ARTICLE XXVI-A - NUCLEAR REACTOR SAFETY

1. The Contractor recognizes that the activities under this contract involve the risk of a nuclear incident which, while the chances of its occurrence are remote, could adversely affect the public health and safety. In the conduct of its activities hereunder, the Contractor will exercise a degree of care commensurate with the risk involved.

2. The Contractor shall comply with all regulations of the Commission concerning nuclear reactor safety and with those requirements (including reporting requirements and instructions) of the

Commission concerning nuclear reactor safety of which it is notified in writing by the Contracting Officer.

3. Prior to the initial start-up of any nuclear reactor under this contract and prior to any subsequent start-up of a reactor which has been significantly modified, the Contractor shall:

   a. Prepare a Hazards Summary Report and detailed plans and procedures designed to assure the safe operation and maintenance of the reactor. These will generally cover, but not be limited to: pre-start-up check lists; normal operation of the reactor and supporting auxiliaries; maintenance operation; emergency situations; and technical standards for equipment and systems.

   b. Submit such plans and procedures to, and secure the approval of, the Contracting Officer.

   c. Carry out a training program that will assure that all contractor personnel who will be engaged in the operation and maintenance of the nuclear reactor shall understand the approved plans and procedures for nuclear safety to the extent necessary to perform such operation and maintenance safely.

   d. Obtain the approval of the Contracting Officer prior to such start-up of the reactor.

   As used in this Section 3. significant modification of a reactor means any modification of design or operating condition and procedures which results in a substantial change in the existing safety characteristics of the reactor and which does not clearly result in an improvement in the safety of the system.

4. In the operation and maintenance of any nuclear reactor under this contract, the Contractor shall:

   a. Use its best efforts to assure that all operational and maintenance activities are performed by qualified and adequately trained personnel and, except as otherwise agreed in writing, are conducted at all times under the supervision of personnel who are qualified to appraise any emergency condition and take prompt effective action with respect thereto.

   b. Follow strictly the plans and procedures for nuclear safety approved by the Contracting Officer and submit to the Contracting Officer for his approval any proposed changes in such plans and procedures. The plans and

procedures may specify certain areas in which the Contractor may make changes in operating and maintenance procedures and in the facility without approval of the Contracting Officer. All such changes shall be subject to review by a competent, independent, internal organization of the Contractor.

c. Establish a system of inspection approved by the Contracting Officer (including review of inspection reports by competent technical personnel) that will (i) provide frequent and periodic checks of reactor performance and of the qualifications and training of operating and maintenance personnel and (ii) provide for investigation of any unusual or unpredicted reactor conditions that might affect the safe operation of the reactor.

d. Report promptly to the Contracting Officer any change in the physical condition of the reactor or its operating characteristics that might affect the safe operation of the reactor.

e. Shut down the reactor immediately whenever so instructed by the Contracting Officer, or whenever, in the judgment of the Contractor the risk of a nuclear incident endangering persons or property warrants such action.

f. Prepare, in cooperation with other services and facilities available at the site and with the approval of the Contracting Officer, a plan for minimizing the effects of a nuclear incident upon the health and safety of the operating personnel and the public; instruct the personnel as to their participation in such plan and any personal risk to such personnel that may be involved; and participate in such practice exercises as may be desirable to assure the effectiveness of such plans.

5. Nothing contained in this Article shall be deemed to obligate or authorize the Contractor to operate and maintain any nuclear reactor under this contract in violation of the regulatory requirements imposed upon the Contractor under Title 10 CFR 1.115 including any authorization issued thereunder.

ARTICLE XXVII - SECURITY

1. Contractor's Duty to Safeguard Restricted Data and Other Classified Information - In the performance of the work under this contract the Contractor shall, in accordance with the Commission's security regulations and requirements, be responsible for safeguarding restricted data and other classified

matter and protecting against sabotage, espionage, loss and theft, the classified documents, materials, equipment, processes, etc., as well as such other material of high intrinsic or strategic value as may be in the Contractor's possession in connection with performance of work under this contract. Except as otherwise expressly provided in the specifications the Contractor shall upon completion or termination of this contract transmit to the Commission any classified matter in the possession of the Contractor or any person under the Contractor's control in connection with the performance of this contract.

2. Regulations - The Contractor agrees to conform to all security regulations and requirements of the Commission.

3. Definition of Restricted Data - The term "Restricted Data," as used in this Article, means all data concerning (a) design, manufacture, or utilization of atomic weapons; (b) the production of special nuclear material; or (c) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act of 1954.

4. Security Clearance of Personnel - Except as the Commission may authorize, in accordance with the Atomic Energy Act of 1954 the Contractor shall not permit any individual to have access to Restricted Data until the designated investigating agency shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security. As used in this Article, the term "designated investigating agency" means the United States Civil Service Commission or the Federal Bureau of Investigation, or both, as determined pursuant to the provisions of the Atomic Energy Act of 1954.

5. Criminal Liability - It is understood that disclosure of information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any Restricted Data or any top secret, secret, or confidential matter that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, his agents, employees, and subcontractors to criminal liability under the

laws of the United States. (See the Atomic Energy Act of 1954, 68 Stat. 919). (See also Executive Order 10104 of February 1, 1950, 15 F. R. 597.)

6. Subcontracts and Purchase Orders - Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

ARTICLE XXVIII - PERMITS

Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses and abide by all applicable laws, regulations, and ordinances of the United States and of the State, territory, and political subdivision in which the work under this contract is performed.

ARTICLE XXIX - GOVERNMENT PROPERTY

1. Furnishing of Government Property - The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

2. Title to Property - Title to all property furnished by the Government shall remain in the Government except as otherwise provided in this Article. Except as otherwise approved by the Contracting Officer, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass directly from the vendor to the Government. The Government reserves the right to inspect, and to accept or reject, any item of such property. The Contractor shall make such disposition of rejected items as the Contracting Officer may direct. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon (a) issuance for use of such property in the performance of this contract, or (b) commencement of processing or use of such property in the performance of this contract, or (c) reimbursement of the cost thereof by the Government, whichever first occurs. Property furnished by the Government and property purchased or furnished by the Contractor title to which vests in the Government under this paragraph is hereinafter referred to as Government Property. Title to Government Property shall

Contract No. AT-11-1-Gen-8
Supplement No. 26 to
Modification No. 2

SUPPLEMENTAL AGREEMENT
BETWEEN
NORTH AMERICAN AVIATION, INC.
AND
THE U. S. ATOMIC ENERGY COMMISSION

This supplemental agreement is entered into and effective this 24 day of January, 1966, between the UNITED STATES OF AMERICA (hereinafter called the "Government"), acting through the UNITED STATES ATOMIC ENERGY COMMISSION (hereinafter called the "Commission"), and NORTH AMERICAN AVIATION, INC. (hereinafter called the "Contractor"), a corporation, existing under and by virtue of the laws of the State of Delaware, with its principal offices located at 1700 E. Imperial Highway, El Segundo, California.

RECITALS

This supplemental agreement increases the total amount of funds obligated in the Government fiscal year 1966 for the performance of the work hereunder by $1,316,573.

AGREEMENT

NOW THEREFORE, the parties hereto mutually agree that the contract, as heretofore amended, shall be and is hereby further amended as follows:

In Article VI, Section 6.2, subsection C. thereof, delete the words and figures "Ten Million, Nine Hundred Thirty-Six Thousand, One Hundred Twenty and no/100 Dollars ($10,936,120.00)" and insert in lieu thereof the words and figures "Twelve Million, Two Hundred Fifty-Two Thousand, Six Hundred Ninety-Three and no/100 Dollars ($12,252,693.00)".

IN WITNESS WHEREOF, the Government and the Contractor have executed this supplemental agreement on the date first above written.

THE UNITED STATES OF AMERICA

BY: Kenneth A. Dunbar

Kenneth A. Dunbar, Manager

Chicago Operations Office
U. S. Atomic Energy Commission

NORTH AMERICAN AVIATION, INC.

BY: L. L. Waite

L. L. Waite
Senior Vice President
(Title)

I, M. H. Hiatt (attester), certify that I am

the Assistant Secretary (title) of the Contractor

named under this contract; that L. L. Waite (signatory)

who signed this contract on behalf of said Contractor was then

Senior Vice President (title) of said

Contractor; that this contract was duly signed for and on behalf of said Contractor by authority of its governing body and is within the scope of its legal powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said Contractor.

M. H. Hiatt

(SEAL)

Contract No. AT-11-1-Gen-8
Supplement No. 25 to
Modification No. 2

SUPPLEMENTAL AGREEMENT
BETWEEN
NORTH AMERICAN AVIATION, INC.
AND
THE U. S. ATOMIC ENERGY COMMISSION

This supplemental agreement is entered into this 1st day of December, 1965, effective October 1, 1965, between the UNITED STATES OF AMERICA (hereinafter called the "Government"), acting through the UNITED STATES ATOMIC ENERGY COMMISSION (hereinafter called the "Commission"), and NORTH AMERICAN AVIATION, INC. (hereinafter called the "Contractor"), a corporation, existing under and by virtue of the laws of the State of Delaware, with its principal offices located at 1700 E. Imperial Highway, El Segundo, California.

RECITALS

This supplemental agreement increases the total amount of funds obligated in the Government fiscal year 1966 for the performance of the work hereunder by $4,564,120.00.

AGREEMENT

NOW THEREFORE, the parties hereto mutually agree that the contract, as heretofore amended, shall be and is hereby further amended as follows:

In Article VI, Section 6.2, subsection C. thereof, delete the words and figures "Six Million, Three Hundred Seventy-Two Thousand and no/100 Dollars ($6,372,000.00)" and insert in lieu thereof the words and figures "Ten Million, Nine Hundred Thirty-Six Thousand, One Hundred Twenty and no/100 Dollars ($10,936,120.00)".

IN WITNESS WHEREOF, the Government and the Contractor have executed this supplemental agreement on the date first above written.

THE UNITED STATES OF AMERICA

BY: Kenneth A. Dunbar

Kenneth A. Dunbar, Manager
Chicago Operations Office
U. S. Atomic Energy Commission

NORTH AMERICAN AVIATION, INC.

BY: 11-16-65

J. S. Smithson
Senior Vice President
(Title)

I, E. N. Yost, certify that I am
(attester)

an ~~the~~ Assistant Secretary of the Contractor
(title)

named under this contract; that J. S. Smithson
(signatory)

who signed this contract on behalf of said Contractor was then

Senior Vice President of said
(title)

Contractor; that this contract was duly signed for and on behalf of said Contractor by authority of its governing body and is within the scope of its legal powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said Contractor.

E. N. Yost

(SEAL)

Contract No. AT-11-1-Gen-8
Supplement No. 24 to
Modification No. 2

SUPPLEMENTAL AGREEMENT
BETWEEN
NORTH AMERICAN AVIATION, INC.
AND
THE U. S. ATOMIC ENERGY COMMISSION

This Supplemental Agreement is entered into and effective this 28th day of September, 1965, between the UNITED STATES OF AMERICA (hereinafter called the "Government"), acting through the UNITED STATES ATOMIC ENERGY COMMISSION (hereinafter called the "Commission"), and NORTH AMERICAN AVIATION, INC. (hereinafter called the "Contractor"), a corporation existing under and by virtue of the laws of the State of Delaware, with its principal office located at 1700 E. Imperial Highway, El Segundo, California.

RECITALS

This supplemental agreement obligates $6,372,000.00 in the Government Fiscal Year 1966 for the performance of the work under the contract.

AGREEMENT

NOW THEREFORE, the parties hereto do mutually agree that the contract, as amended, shall be and is hereby further amended as follows:

In Article VI, Section 6.2 thereof, add a new subsection "C." reading as follows:

> "C. The amount obligated in Government Fiscal Year 1966 for the twelve-month period ending September 30, 1966, is Six Million, Three Hundred Seventy-Two Thousand and No/100 Dollars ($6,372,000.00)."

IN WITNESS WHEREOF, the Government and the Contractor have executed this Supplemental Agreement on the date first above written.

THE UNITED STATES OF AMERICA

By Kenneth A. Dunbar
Kenneth A. Dunbar, Manager

Chicago Operations Office
U. S. Atomic Energy Commission

NORTH AMERICAN AVIATION, INC.

By [signature] 9-9-65

R. A. Lambeth
Senior Vice President
(Title)

I, E. N. Yost, certify that I am an Assistant Secretary of NORTH AMERICAN AVIATION, INC., referred to as the Contractor herein; that R. A. Lambeth, who signed this Supplemental Agreement on behalf of said corporation was then Senior Vice President of said corporation; that said Supplemental Agreement was duly signed for and on behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

IN WITNESS WHEREOF, I hereunto affixed my hand and the seal of said corporation.

E N Yost

(SEAL)

CONTRACT NO. AT-11-1-GEN-8

MODIFICATION NO. 2

COMPOSITE COPY

THROUGH

SUPPLEMENT NO. ~~24~~ 25 Final

DATED SEPTEMBER 28, 1965

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APPENDIX A

APPENDIX B

APPENDIX C

Contract No. AT-11-1-Gen-8
Modification No. 2

This AGREEMENT is entered into this 24th day of January, 1963, effective October 1, 1962, between the UNITED STATES OF AMERICA (hereinafter called the "Government"), acting through the U. S. ATOMIC ENERGY COMMISSION (hereinafter called the "Commission"), and NORTH AMERICAN AVIATION, INC. (hereinafter called the "Contractor"), a corporation existing under and by virtue of the laws of the State of Delaware, with its principal office located at International Airport, Los Angeles, California.

RECITALS

The Contractor is now and since May 1, 1948, has been conducting an atomic energy research and development program under prime Contract No. AT-11-1-Gen-8 and predecessor and collateral contracts with the Commission. The Commission desires to continue such program, and the Contractor has indicated its willingness to perform the required work and services upon a cost-plus-fixed-fee basis and otherwise upon the terms, conditions, and provisions hereinafter set forth. The period of performance will be extended by mutual agreement from the first day of October, 1962, through the thirtieth day of September, 1966, it being intended that this Modification No. 2 shall supersede and merge supplements Nos. 24 through 28 to Modification No. 1. The parties have found it desirable to revise the contract in its entirety in order to conform its articles to existing laws and regulations, to reflect certain changed conditions, and to clarify the respective rights and obligations of the parties in certain areas.

AGREEMENT

NOW THEREFORE, the parties mutually agree that the contract as amended shall be and is hereby modified in its entirety to read as follows:

ARTICLE I - DEFINITIONS

As used in this contract,

A. The term "Contracting Officer" means the person executing this contract on behalf of the Government and includes his successors or any duly authorized representative of any such person.

B. The term "Commission" means the United States Atomic Energy Commission or any duly authorized representative thereof, including the Contracting Officer except for the purpose of deciding an appeal under the article entitled "Disputes."

C. The term "fuel assembly" means the entity consisting of fuel bundle, process tube, lower guide tube, hanger rod, shield plug, and other required components, ready for insertion into the HNPF reactor and for subsequent operation.

D. The term "fuel bundle" means the cluster of fuel rods, spacers, supports, and other required components, assembled and ready for incorporation in the fuel assembly.

E. The term "fuel rod" means the rod consisting of fuel slugs in stainless steel tubing, filled with sodium and helium, and closed with welded end plugs.

ARTICLE II - TERM OF CONTRACT

The term of this modification shall be from October 1, 1962, through September 30, 1966, unless sooner terminated as herein provided or extended by mutual agreement.

ARTICLE III - NATURE AND SCOPE OF WORK

3.1 The Contractor shall furnish all necessary personnel, labor, engineering, materials, services, supplies, utilities, and facilities (except such of the foregoing as the Government has furnished or may hereafter furnish under the terms of this contract), to conduct and shall conduct from time to time, in accordance with the terms and provisions of this contract, projects of research, development and other work, pursuant to annual Program Letters and Financial Plans described in Article V as such Letters and Plans may be amended or changed from time to time in accordance with this contract. Such projects may include, but need not be limited to, the following:

A. Study and development of reactors and reactor auxiliary systems, reactor materials, fuels and fuel elements, components and designs;

B. Investigation, study, and evaluation of reactor technology and use, both in the United States and foreign countries;

C. Furnishing to the Commission information, evaluation studies and reports, including necessary progress, financial, and other special and technical reports on work performed under this contract;

D. Necessary design, manufacture, assembly, testing and operation of experimental equipment, auxiliary machinery, reactors and reactor components;

E. Furnishing the Commission information and reports to the extent mutually agreed upon in writing on work performed by the Contractor in anticipation of work or individual projects under this contract which may be of interest to the Commission;

F. Furnishing assistance and consultation to the Commission and its contractors on scientific and technical problems in the field of atomic energy;

G. Construction incidental to the work, as may be approved by the Commission.

3.2 The Contractor shall undertake the following specific projects:

A. Continuation of performance of all research, developmental, engineering and related work and services for the Piqua Power Demonstration Reactor Project (hereinafter referred to as Piqua Nuclear Power Facility or PNPF) in accordance with the requirements and specifications set forth in Supplements No. 4 and No. 23 and Appendices B and C to Modification No. 1 to Contract No. AT-11-1-Gen-8, and subject to the financial, cost reimbursement, and other limitations provided for in such supplements, it being understood and agreed by the parties hereto that their respective rights and obligations under this contract with respect to PNPF as provided in Modification No. 1, as amended, shall remain in full force and effect under this Modification No. 2. Any other provision of the contract, as amended, to the contrary notwithstanding, the Commission shall not be obligated to reimburse the Contractor in excess of a total amount of Two Million, Three Hundred Five Thousand, Four Hundred Eighty and No/100 Dollars ($2,305,480.00) for allowable costs in connection with the Contractor's performance of the work under Article II, Section 2.b. of Modification No. 1 to the contract as amended. The Contractor shall provide:

(i) in connection with pre-operational tests, not more than 164 man-months of technical assistance to and supervision of the reactor crew furnished by the City of Piqua;

(ii) in connection with reactor operational tests, not more than 198 man-months of technical assistance to and supervision of the reactor crew furnished by the City of Piqua, together with services and materials related to the performance of such effort, as approved by the Commission;

(iii) health physics coverage during pre-operational tests, as required by the Commission; and

(iv) additional safety review and analysis during pre-operational and operational tests, as required by the Commission.

The estimated cost of the effort described in the four foregoing subdivisions is included in the dollar limitation on allowable costs set forth above.

The total increase of $460,870.00 included in the limitation on allowable costs set forth in the foregoing paragraph consists of adjustments as shown below:

(a)	As to the effort described in (i) above -	$143,800.00
(b)	As to the effort described in (ii) above -	$293,200.00
(c)	As to the effort described in (iii) above -	$ 3,070.00
(d)	As to the effort described in (iv) above -	$ 20,800.00

It is understood and agreed that the portion of the total cost increase allocated under item (a) in this paragraph shall not be subject to further adjustment; and that the increases under items (b), (c) and (d) in this paragraph are estimated only and may be subject to further adjustment provided, however, that as to the foregoing categories (ii) through (iv) the Contractor shall not be obligated to perform any effort under any such category beyond the point at which it will incur costs in excess of the corresponding cost limitation. It is further understood and agreed that the amounts allocated as specified above are not interchangeable and are not to be used for other purposes.

B. Perform theoretical and laboratory research studies on the mechanism of fission damage and swelling to uranium based metallic fuels and define and demonstrate the full performance potential achievable through incorporation of solid solution and controlled second phase additives in such uranium based fuels; provided, however, that the Contractor will perform such work at no direct cost to the contract during the period between June 25, 1963 and March 23, 1964; and provided further that the Commission will make available to the Contractor without charge such necessary equipment and special nuclear material as is required for performance of the work.

C. Hallam Nuclear Power Facility Second Core

(i) Scope. The Contractor shall, upon the terms, conditions and provisions hereinafter set forth and in accordance with drawings and specifications listed in the attached Appendix C and such other required drawings and specifications as shall be prepared by the Contractor and approved by the Commission, furnish all necessary facilities (except those furnished by the Commission), personnel, labor, materials, equipment, supplies and services sufficient for and required to:

1) fabricate, deliver and unload at the HNPF site near Hallam, Nebraska,

a) 171 uranium carbide fuel bundles including 3 thermocoupled bundles

b) 78 process tubes including the lower casting and piston rings

c) 28 shield plugs including 3 thermocoupled fuel element plugs

d) 13 poison columns including stainless steel thimbles and shield plugs.

2) assemble 171 uranium carbide fuel assemblies, including 3 thermocoupled assemblies, using the items delivered under item 1) above and reusable first core components and available spare components at the HNPF site which the Commission shall cause to be made available in accordance with mutually agreeable written procedures.

3) assemble 13 poison rods and associated components.

4) furnish such information concerning the fabrication of the fuel assemblies as may be necessary for inclusion in safeguards analyses and reports.

5) In accordance with mutually acceptable written procedures:

a) prior to incorporation into fuel assemblies store in a safe nuclear configuration in storage or shipping casks provided by the Contractor fuel bundles and fuel rods delivered to the HNPF site.

b) store assembled fuel assemblies in safe nuclear configurations in storage facilities at the HNPF.

c) store 13 poison rods and associated components in storage facilities at the HNPF.

(ii) Schedule. The target dates for performance of the work under the Contract shall be as follows:

1) fabricate, deliver, unload, assemble, and place in storage facilities as set forth above, 57 fuel assemblies not later than August 15, 1964.

2) fabricate, deliver, unload, and place in storage as set forth above, an additional 57 fuel bundles not later than December 15, 1964.

3) fabricate, deliver, unload, and place in storage as set forth above an additional 57 fuel bundles not later than April 15, 1965.

4) Periodically as required or directed by the Commission, incorporate the fuel bundles mentioned in 2) and 3) above into completed assemblies and place such assemblies into designated storage facilities, not more than one month after withdrawal of sufficient fuel assemblies from the reactor to provide the necessary reusable components or not more than one month after the applicable date set out in 2) and 3) above, whichever is later.

(iii) Contractor shall send a "Notice of Shipment" to the Plant Superintendent, Consumers Public Power District, Sheldon Station, Hallam, Nebraska, so as to be in his hands at least twenty-four hours before each shipment arrives at its destination.

(iv) The Contract, as amended, merges and supersedes Letter Contract dated July 17, 1963, between the Contractor and the Commission as Assignee of the District (Supplement No. 6 to the Contract.)

D. Interim Operation of Piqua Nuclear Power Facility (PNPF)

After final acceptance by the Commission of the PNPF from the Contractor under Contract No. AT(11-1)-653 and pending the Commission's issuance of an operating authorization to the City of Piqua in connection with the City's operating contract, the Contractor shall continue to operate such facility pursuant to its existing operating authorization, on a cost reimbursement basis, in accordance with the terms, conditions and provisions of this contract, utilizing City of Piqua operating personnel to the maximum feasible extent. In conjunction with such operation the Contractor shall also furnish (i) required safety reviews and analyses, and (ii) support to the City's pending application for an authorization to operate the PNPF. Such operation shall be in accordance with procedures and controls mutually developed from time to time and agreed to in writing by the parties.

E. Engineering Review of Elk River Reactor Control Rods

The Contractor shall perform, in accordance with the terms and conditions and provisions of this contract, an engineering study of the control rod design of the Commission-owned Elk River Reactor at Elk River, Minnesota, such study to include an estimate of the procurement cost of such control rods. The scope of such study is specified and set forth in Contractor's proposal dated May 21, 1965, and in the Commission's Authorization Program No. C-65-20. The estimated cost of such study is Ten Thousand Nine Hundred Thirty-Six and No/100 Dollars ($10,936.00) and the fixed fee is Five Hundred Thirty-Eight and No/100 Dollars ($538.00). The estimated time for performance is five (5) weeks commencing May 26, 1965.

3.3 In accordance with guidance supplied by the Commission in regard to the dissemination of classified and unclassified data, the Contractor shall use its best efforts to assure that the results of classified and unclassified scientific and engineering work performed under this contract are duly reported to the Commission, to the scientific and engineering community, to industry, and to the general public. The Contractor will follow normal scientific and technical practices in the reporting of results through recognized technical journals and scientific conferences and through the Commission's reporting system. In addition, the Contractor will furnish such reports as are requested by the Commission. It is the intent of the Commission to cooperate with the Contractor in determining the necessity, form and frequency of such reports.

ARTICLE IV - GENERAL ADMINISTRATION AND CONDUCT OF WORK

4.1 The work and services under this contract shall be performed by the Contractor through its Atomics International Division at its existing facilities in southern California, and at such other locations, including Government-owned facilities as may be approved by the Contracting Officer. Unless the Contractor otherwise notifies the Commission in writing, the Contractor's responsibilities under this contract shall be administered by the President, Atomics International Division, and his authorized representatives.

4.2 The Commission shall be responsible, in accordance with the procedures set forth in Article V, for establishment of specific projects of research and development and other work to be undertaken by the Contractor. It is understood that, unless the Commission otherwise notifies the Contractor in writing, its responsibilities under this agreement shall be administered by the Manager, Chicago Operations Office, and his authorized representatives.

ARTICLE V - PROGRAM APPROVAL AND FINANCING

5.1 Annual Programs and Financing.

It is the intent of the Commission and the Contractor to utilize the following procedures on a Government fiscal year basis for approval and authorization of the Contractor's work program and budgets:

A. Upon or prior to July 1 of each year, or within a reasonable time thereafter, the Commission shall furnish to the Contractor an interim program letter and a preliminary financial plan

which will authorize the Contractor to perform all or that portion of the work program, previously proposed by the Contractor in accordance with established procedures mutually acceptable, for the then current fiscal year which is approved by the Commission, plus such additional work as the Commission and the Contractor may have agreed upon.

B. Formal Commission approval of the work program and budget estimates will be reflected in annual program letters and financial plans which will authorize the Contractor to perform all or a portion of such program, together with such additional work as the Commission and the Contractor may have agreed upon. The Commission will issue these documents to the Contractor as soon as possible after funds become available. The financial plans will specify the funds available for work under the contract for the fiscal year and, in addition, may establish special limitations on costs to be incurred for individual items of work.

C. A supplemental agreement to the contract will be executed by the parties on or before September 30 of each year (or such other date as may be agreed upon) to provide funds for the approved work program, and further supplemental agreements may be entered into from time to time to revise the total amounts of funds available for the contract work.

D. From time to time, the Commission will review the current work program and its costs based upon information submitted by the Contractor, and may revise the applicable Annual Program Letter and Financial Plan.

E. The Contractor will use its best efforts to adhere to the special limitations set forth in each Financial Plan and will comply with the provisions of each Annual Program Letter or revisions thereof.

5.2 Budgetary Administration. The Contractor will develop and execute procedures for the budget administration on an accrued cost basis in general conformance with the policies and practices of the Commission on budgeting and accounting.

ARTICLE VI - ESTIMATES OF COSTS, OBLIGATION OF FUNDS, AND FIXED FEE

6.1 Estimate of Cost and Fixed Fee

A. The estimated cost of the work under this contract from July 1, 1962 to June 30, 1963, is Sixty-Six Million, One Hundred Fifty-Two Thousand and No/100 Dollars ($66,152,000.00). The Contractor's fixed fee for such period is Two Million, Nine Hundred Twenty-Four Thousand, Twenty-Five and No/100 Dollars ($2,924,025.00).

B. Estimate of Cost and Fixed Fee for the Period Ending June 30, 1964. The estimated cost of the work under this contract from July 1, 1963 to June 30, 1964, is Sixty-Seven Million, Four Hundred Eighty-Two Thousand and No/100 Dollars ($67,482,000.00). The Contractor's fixed fee for such period is Two Million, Nine Hundred Twenty-Four Thousand and No/100 Dollars ($2,924,000.00).

C. Estimate of Cost and Fixed Fee for the Period Ending June 30, 1965. The estimated cost of the work under this contract from July 1, 1964 through June 30, 1965, is Fifty-Seven Million, Six Hundred Twenty-Three Thousand, Nine Hundred Sixty-Two and No/100 Dollars ($57,623,962.00). The Contractor's fixed fee for such period is Two Million, Six Hundred Thirty-Five Thousand, Five Hundred Thirty-Eight and No/100 Dollars ($2,635,538.00).

D. 34,488,058.00 − 1,912,000.00

6.2 Obligation of Funds by the Government

A. The amount obligated by the Government through June 30, 1964, under this contract is Three Hundred Eighty-Two Million, One Hundred Two Thousand, Ninety-Eight and No/100 Dollars ($382,102,098.00).

B. The amount obligated in Government Fiscal Year 1965 for the twelve-month period ending September 30, 1965, is Fifty-Five Million, Two Hundred Thirty-Two Thousand, Two Hundred Forty-Six and No/100 Dollars ($55,232,246.00).

C. The amount obligated in Government Fiscal Year 1966 for the twelve-month period ending September 30, 1966, is Ten Million, Nine Hundred Thirty-Six Thousand, One Hundred Twenty and ~~Six Million, Three Hundred Seventy-Two Thousand and~~ No/100 Dollars (~~$6,372,000.00~~).

~~$10,936,120.00~~ ~~(Supp. No. 35 - 12/4/65)~~
$27,665,251.00 (Supp. No. 30 6/30/66

upl. 31
D. 2,800,000
Item-Supp. 31
$281,365

6.3 Revised Estimates of Cost and Obligation of Funds. The estimated cost of the work under Section 6.1 and the amount obligated under Section 6.2 may be increased unilaterally by the Commission by written notice to the Contractor and may be increased or decreased by written agreement of the parties (whether or not by formal modification of this contract).

6.4 Limitation of Obligation. The Commission will use its best efforts to assure that funds will be obligated at all times in an amount equal to all costs incurred and existing commitments plus three months estimated costs. Payments on account of costs shall not in the aggregate at any time exceed the amount of funds then obligated hereunder less the Contractor's fixed fee.

6.5 Notice of Costs Approaching Funds Obligated - Contractor Excused Pending Increase When Obligation is Reached.

A. The Contractor shall promptly notify the Contracting Officer in writing whenever the Contractor has reason to believe (a) that the total cost (exclusive of the Contractor's fixed fee) of the work under this contract for the then current period set forth in Section 6.1 will be substantially greater or less than the estimated cost of the work for such period or (b) the sum of costs incurred during the then current period set forth in Section 6.2 and outstanding commitments and the Contractor's fixed fee is equal to ninety percent (90%) (or such other percentage as the Contracting Officer may from time to time establish by notice to the Contractor) of the total of the amount obligated for that period plus that portion unexpended by the Contractor of funds obligated by the Government and carried forward from previous Government fiscal years.

B. When total costs and outstanding commitments, including the Contractor's fixed fee, equal one hundred percent (100%) of the amount obligated under Section 6.2, the Contractor shall make no further commitments or expenditures (except to meet existing commitments) and shall be excused from further performance of the work unless and until the Contracting Officer thereafter shall increase the funds obligated with respect to this contract.

C. With respect to any item for which a special limitation is established in the Financial Plan, the Contractor shall notify the Contracting Officer in writing when the current Government fiscal year costs, together with outstanding commitments, plus the Contractor's fixed fee, are equal to ninety percent (90%) (or such other percentage as the Contracting Officer may from time to time establish by notice to the Contractor) of such limitation. When such current fiscal year costs and commitments plus the fixed fee in connection with a particular Financial Plan item equal one hundred percent (100%) of any applicable Financial Plan limitation, the Contractor shall make no further commitments or expenditures (except to meet existing commitments) in connection with the particular item and shall be excused from further performance of the work thereunder unless and until the Contracting Officer shall increase the pertinent Financial Plan limitation or limitations.

D. The Contracting Officer may prescribe similar limitations and require similar notices with respect to any interim period at the beginning of a fiscal year before funds have been obligated for the entire year, and the Contractor shall comply with such requirements.

6.6 Government's Right to Terminate Not Affected. The giving of any notice by either party under this article shall not be construed to waive or impair any right of the Government to terminate the contract under the provisions of the contract entitled "Termination."

6.7 Cost Information. The Contractor shall maintain current cost information adequate to reflect the cost of performing the work under this contract at all times while the work is in progress, and shall prepare and furnish to the Government such written estimates of cost and information in support thereof as the Contracting Officer may request.

6.8 Correctness of Estimates Not Guaranteed. Neither the Government nor the Contractor guarantees the correctness of any estimate of cost for performance of the work under this contract, and there shall be no adjustment in the amount of the Contractor's fixed fee by reason of errors in the computation of estimates or differences between such estimates and the actual cost for performance of the work.

ARTICLE VI-A - ESTIMATE OF COSTS, OBLIGATION OF FUNDS, AND FIXED FEE, HNPF FIRST REPLACEMENT CORE

6-A.1 Estimate of Cost and Fixed Fee. The presently estimated cost of the work under Subsection C of Section 3.2 of Article III of the Contract is Three Million Nine Hundred Thousand and No/100 Dollars ($3,900,000.00) exclusive of the Contractor's fixed fee. The Contractor's fixed fee for such work is Two Hundred Thirty-Four Thousand and No/100 Dollars ($234,000.00). The sum of the foregoing two amounts, as the same may be revised from time to time in accordance with this Article, shall comprise the amount obligated by the Government with respect to the work and services under Subsection C of Section 3.2 of Article III of the Contract.

6-A.2 Revised Estimates of Cost. The presently estimated cost of the work and the amount presently obligated hereunder may be increased unilaterally by the Commission by written notice to the Contractor and may be increased or decreased by written agreement of the parties (whether or not by formal modification of the Contract).

6-A.3 Limitation of Obligation. Payments on account of costs shall not in the aggregate at any time exceed the amount of funds then obligated hereunder (Article VI-A) less the Contractor's fixed fee.

6-A.4 Notice of Costs Approaching Funds Obligated--Contractor Excused Pending Increase When Obligation is Reached. Whenever the Contractor has reason to believe that the total cost of the work under Subsection C of Section 3.2 of Article III of the Contract (exclusive of the Contractor's fixed fee) will be substantially greater or less than the presently estimated cost of such work the Contractor shall promptly notify the Contracting Officer in writing. The Contractor shall also notify the Contracting Officer in writing when the aggregate of expenditures and outstanding commitments allowable under

this Article VI-A, including the Contractor's fixed fee, is equal to ninety percent (90%) (or such other percentage as the Contracting Officer may from time to time establish by notice to the Contractor) of the amount of funds presently obligated hereunder (Article VI-A). When such expenditures and outstanding commitments, including the Contractor's fixed fee, equal one hundred percent (100%) of such amount the Contractor shall make no further commitments or expenditures (except to meet existing commitments) and shall be excused from further performance of the work under Subsection C of Section 3.2 of Article III of the Contract unless and until the Contracting Officer thereafter shall increase the funds obligated with respect to the Contract.

6-A.5 Government's Right to Terminate Not Affected. The giving of any notice by either party under this Article shall not be construed to waive or impair any right of the Government to terminate the work and services under Subsection C of Section 3.2 of Article III of the Contract under the provisions of the clause entitled "Termination."

6-A.6 Cost Information. The Contractor shall maintain current cost information adequate to reflect the cost of performing the work under Subsection C of Section 3.2 of Article III of the Contract at all times while the work is in progress, and shall prepare and furnish to the Government such written estimates of cost and information in support thereof as the Contracting Officer may request.

6-A.7 Correctness of Estimates Not Guaranteed. Neither the Government nor the Contractor guarantees the correctness of any estimate of cost for performance of the work under Subsection C of Section 3.2 of Article III of the Contract, and there shall be no adjustment in the amount of the Contractor's fixed fee for such work by reason of errors in the computation of estimates or differences between such estimates and the actual cost for performance of such work.

ARTICLE VII - ALLOWABLE COSTS AND FIXED FEES

7.1 Compensation for Contractor's Services. The Commission shall pay the Contractor (i) its allowable costs, as defined in Appendix A hereto attached and hereby made a part of this contract, (ii) the fixed fee specified in Section 7.2, and (iii) the sum of One Million, Three Hundred Forty-Two Thousand, Seven Hundred Seven and 23/100 Dollars ($1, 342, 707.23), which represents the difference between the amount of depreciation for which the Contractor has been reimbursed on a straight-line basis pursuant to Modification No. 1 to this contract (Article VIII, subsection 3.y.) up to October 1, 1961, and the amount of depreciation for which the Contractor would have been reimbursed if depreciation charges actually accrued by the Contractor in accordance with Contractor's established depreciation policies and practices consistently applied had been made reimbursable under the contract. Such payments shall constitute full and complete compensation for the performance of the work under the contract.

7.2 Fixed Fees.

A. In addition to the previous fees paid for performance of the work hereunder in accordance with prior agreements, the Contractor shall be paid a fixed fee of Two Million, Nine Hundred Twenty-Four Thousand, Twenty-Five and No/100 Dollars ($2, 924, 025.00) for work to be performed during the period from July 1, 1962, through June 30, 1963.

B. In addition to other fees paid or to be paid for performance of the work under the Contract, the Contractor shall be paid a fixed fee of Two Hundred Thirty-Four Thousand and No/100 Dollars ($234, 000.00) for its performance of the work and services under Subsection C of Section 3.2 of Article III of the Contract.

C. Fixed Fee for Period Ending June 30, 1964. In addition to other fees paid or to be paid for performance of the work under the contract, the Contractor shall be paid a fixed fee of Two Million, Nine Hundred Twenty-Four Thousand and No/100 Dollars ($2, 924, 000. 00) for work to be performed during the period from July 1, 1963, through June 30, 1964.

D. Fixed Fee for Period Ending June 30, 1965. In addition to other fees paid or to be paid for performance of the work under the contract, the Contractor shall be paid a fixed fee of Two Million, Six Hundred Thirty-Five Thousand, Five Hundred Thirty-Eight and No/100 Dollars ($2,635,538.00) for work to be performed during the period from July 1, 1964, through June 30, 1965.

E. 1,912,000 July 1, 1965 - June 30, 1966

7.3 Settlement of PNPF Dispute. In addition to all other compensation paid or to be paid to the Contractor by the Commission for the performance of work under the contract, the Commission shall pay the Contractor the lump sum amount of Two Hundred Thousand and No/100 Dollars ($200,000.00). In consideration of such payment, the Contractor for itself, its successors and assigns, does hereby forever release and discharge the Commission and the Government, their officers, agents, employees and assigns, from any and all claims and demands, of any nature whatsoever, which the Contractor now has or may have under this contract, for compensation for additional services performed by the Contractor at the Piqua Nuclear Power Facility as more particularly described in Contract Appeal No. 2-65 before the Atomic Energy Commission Board of Contract Appeals.

ARTICLE VIII - PAYMENTS

8.1 Payments on Account of Allowable Costs. Once each month (or at more frequent intervals, if approved by the Contracting Officer) the Contractor may submit to the Contracting Officer, in such form and reasonable detail as he may require, an invoice or voucher supported by a statement of costs incurred by the Contractor in the performance of this contract and claimed to constitute allowable costs. Promptly after receipt of each invoice or voucher the Government shall, subject to the provisions of Section 8.5, make payment thereon as approved by the Contracting Officer.

8.2 Installments of Fixed Fee

A. Fixed Fees shall be negotiated annually on a Government fiscal year basis and this contract modified accordingly. During the performance of the work under this contract, the fixed fees applicable to the first three Government fiscal years commencing July 1, 1962, shall become due and payable in equal monthly installments. For the remainder of the contract term 90% of the fixed fee shall become due and payable in equal monthly

installments and the balance upon completion and acceptance of all work under this contract. Each installment shall be due and payable on the last day of the month involved. Pending negotiation of the annual fixed fee on the basis of the estimated cost of the work as reflected in the firm financial plan for the applicable fiscal year, the Commission shall make monthly payments (not to exceed five such payments) on account against the applicable installments of the fixed fee. Such payments on account shall in no event exceed 90% of the fee payments to the Contractor properly allocable to the corresponding periods of the previous fiscal year. Prompt adjustment will be made for the difference between such monthly payments on account and the pertinent fee installments when the annual fee has been established.

B. Ninety per cent (90%) of the fixed fee provided for in Subsection B of Section 7.2 of Article VII shall become due and payable in periodic installments in amounts based on the proportion of the work then completed, as estimated by the Contractor and approved by the Contracting Officer, and the balance upon completion and acceptance of all of the work under Subsection C of Section 3.2 of Article III of the Contract.

8.3 Payment of Accrued Depreciation Cost. The sum of One Million, Three Hundred Forty-Two Thousand, Seven Hundred Seven and 23/100 Dollars ($1,342,707.23), specified as item (iii) in Section 7.1, shall be due and payable upon execution of this Modification No. 2; it is understood and agreed that such payment shall

constitute settlement in full of any and all claims of the Contractor under Section 4 of Article VIII of Modification No. 1 to the contract. The Contractor has been or will be reimbursed for the period October 1, 1961 through September 30, 1962 under said Modification No. 1 in accordance with its established depreciation policies and practices consistently applied.

8.4 Review and Approval of Costs Incurred. The Contractor shall prepare and submit annually as of June 30 a voucher, for the total of net expenditures accrued (i.e., net costs incurred) for the period covered by the voucher, and the Commission, after audit and appropriate adjustment will approve such voucher. This approval by the Commission will constitute an acknowledgment by the Commission that the net costs incurred are allowable under the contract and that they have been recorded in the accounts maintained by the Contractor in accordance with the Commission accounting policies, but will not relieve the Contractor of responsibility for the Commission's assets in its care, for appropriate subsequent adjustments, or for errors later becoming known to the Commission.

8.5 Audit Adjustments. At any time or times prior to settlement under this contract the Contracting Officer may have invoices or vouchers and statements of cost audited. Each payment theretofor made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

8.6 Completion Voucher. On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and provisions of Section 8.7) the Government shall promptly pay to the Contractor any balance of allowable cost and any part of the fixed fee which has not been paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (unless within the year the Contracting Officer grants a further specific period of time) from the date of such completion.

8.7 Applicable Credits. The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer.

8.8 Financial Settlement. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

A. an assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

B. a release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(ii) claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of performance of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that

the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and provided, further, that such six-year limitation shall not apply to claims for which the Contractor is indemnified under Article XI of this contract; and

(iii) claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

8.9 Discounts. The Contractor shall to the extent reasonable take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions.

ARTICLE IX - PATENTS

9.1 Whenever any invention or discovery is made or conceived by the Contractor or its employees in the course of or under this contract, the Contractor shall furnish the Commission with complete information thereon; and the Commission shall have the sole power to determine whether or not and where a patent application shall be filed, and to determine the disposition of the title to and rights under any application or patent that may result provided, however, that the Commission, in accordance with the present policy of granting non-exclusive, royalty free licenses for all purposes, will upon request accord the Contractor a non-exclusive, royalty free license in and to any such invention or discovery upon the filing of a patent application. The judgment of the Commission on these matters shall be accepted as final; and the Contractor, for itself and for its employees, agrees that the inventor or inventors will execute all documents and do all things necessary or proper to carry out the judgment of the Commission. Provided, that in the event the

Commission determines not to file a patent application for reasons other than security, the Contractor may file, subject to security restrictions and requirements.

9.2 No claim for pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and 1954 shall be asserted by the Contractor or its employees with respect to any invention or discovery made or conceived in the course of or under this contract.

9.3 Except as otherwise authorized in writing by the Commission, the Contractor will obtain patent agreements to effectuate the purposes of Sections 9.1 and 9.2 from all persons who perform any part of the work under this contract, except such clerical and manual labor personnel as will not have access to technical data.

9.4 It is recognized that during the course of the work hereunder or subsequent thereto, the Contractor, its employees, or its subcontractors may from time to time desire to publish, within the limits of security requirements, information regarding technical or scientific developments arising in the course of the contract. In order that public disclosure of such information will not adversely affect the patent interest of the Commission, patent approval for release shall be secured from the Commission prior to any such publication by the Contractor or its subcontractors, except as to technical and scientific developments which in the Contractor's judgment do not contain patentable subject matter.

9.5 Except as otherwise authorized in writing by the Commission, the Contractor will insert in all subcontracts, purchase orders and consulting agreements, which require research, development, experimentation, or design of a type likely to result in inventions or discoveries, the standard Commission Type A patent provision and a provision similar to Section 9.4.

9.6 It is agreed that the Government shall hold the Contractor harmless from liability of any kind arising from infringement of patent rights in the course of the work performed by the Contractor under this contract, in view of the following facts: (a) the Contractor has not made an investigation as to the possibility of patent infringement,

(b) the Government and the Contractor desire to avoid the delay incident to a patent investigation, and (c) the Contractor has not included in its price or fee any provision for the settlement of possible patent claims. The Contractor shall give prompt notice in writing to the Commission of any action filed or claim against the Contractor for infringement of patent rights in the course of the work performed by the Contractor under this contract. Except as otherwise directed by the Commission in writing, the Contractor shall furnish promptly to the Commission copies of all pertinent papers received by the Contractor with respect to any such action or claim. If required by the Commission the Contractor (at the Government's expense, by proper arrangement) shall assist the Government in the settlement or defense of such action or claim and shall furnish such evidence in its possession as may be required by the Government in the settlement or defense of such action or claim.

9.7 Nothing contained in Sections 9.1 through 9.6 shall in any way be deemed to change the patent rights of the parties existing and reserved under prior patent provisions of this contract.

ARTICLE X - COPYRIGHT

10.1 The Contractor (a) agrees that the Commission shall determine the disposition of the title to and the rights under any copyright secured by the Contractor or its employees on copyrightable material first produced or composed and delivered to the Government under this contract and (b) hereby grants to the Government a royalty-free, non-exclusive, irrevocable license to reproduce, translate, publish, use and dispose of, and to authorize others so to do, all copyrighted or copyrightable work not first produced or composed by the Contractor in the performance of this contract but which is incorporated in the material furnished under the contract, provided that such license shall be only to the extent the Contractor now has, or prior to the completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

10.2 The Contractor agrees that it will use its best efforts not to include any copyrighted material in any written or copyrightable material furnished or delivered under this contract, without a license as provided for in Section 10.1 hereof, or without the consent of the copyright owner, unless specific written approval of the Contracting Officer to the inclusion of such copyrighted material is secured.

10.3 The Contractor agrees to report in writing to the Commission, promptly and in reasonable written detail, any notice or claim of copyright infringement received by the Contractor with respect to any material delivered under this contract.

ARTICLE XI - NUCLEAR HAZARDS INDEMNITY

11.1 Authority and Definitions. This article is incorporated into this contract pursuant to the authority contained in Section 170(d) of the Atomic Energy Act of 1954, as amended through August 29, 1962 (hereinafter called the Act).

A. The definitions set out in the Act shall apply to this article.

B. The term "contract location" means any Commission facility, installation or site at which contractual activity under this contract is being carried on, and any Contractor-owned or controlled facility, installation, or site at which the Contractor is engaged in the performance of contractual activity under this contract.

11.2 Contractor Financial Protection. Except as hereafter permitted or required in writing by the Commission, the Contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability. The Commission may at any time require in

writing that the Contractor provide and maintain financial protection of such a type and in such amount as the Commission shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, provided that the costs of such financial protection will be reimbursed to the Contractor by the Commission.

11.3 Indemnity Agreement

A. To the extent that the Contractor and other persons indemnified are not compensated by any financial protection permitted or required by the Commission, the Commission will indemnify the Contractor, and other persons indemnified, against (i) claims for public liability as described in paragraph 11.3.B of this section 11.3; and (ii) the reasonable costs of investigating and settling claims, and defending suits for damage for such public liability, provided that the Commission's liability, including such reasonable costs, under all indemnity agreements entered into by the Commission under section 170 of the Act, including this contract, shall not exceed $500,000,000 in the aggregate for each nuclear incident occurring within the United States or $100,000,000 in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.

B. The public liability referred to in subsection 11.3.A is public liability which (i) arises out of or in connection with the contractual activity; and (ii) arises out of or results from:

(a) a nuclear incident which takes place at a contract location; or

(b) a nuclear incident which takes place at any other location and arises out of or in the course of the performance of contractual activity under this contract by the Contractor's employees, individual consultants,

borrowed personnel or other persons for the consequences of whose acts or omissions the Contractor is liable, provided that such incident is not covered by any other indemnity agreement entered into by the Commission pursuant to Section 170 of the Act; or

(c) a nuclear incident which arises out of or in the course of transportation of source, special nuclear, or byproduct materials to or from a contract location; provided such incident is not covered by any indemnity agreement entered into by the Commission with the transporting carrier, or with a carrier's organization acting for the benefit of the transporting carrier, or with a licensee of the Commission, pursuant to Section 170 of the Act; or

(d) a nuclear incident which involves items (such as equipment, material, facilities, or design or other data) produced or delivered under this contract, provided such incident is not covered by any other indemnity agreement entered into by the Commission pursuant to Section 170 of the Act.

(e) With respect to nuclear incidents occurring outside the United States the provisions of this article shall take effect on December 3, 1962.

11.4 Claims Procedure

A. When the Commission shall determine that the Government will probably be required to make indemnity payments under the provisions of Section 11.3, the Commission shall have the right to, and shall, collaborate with the Contractor and any other person indemnified in the settlement or defense of any claim and shall have the right (a) to require the prior approval of the Commission for the payment of any claim that the Commission may be required to indemnify hereunder, and (b) to appear through the Attorney General on behalf of the Contractor or other persons indemnified in any action brought upon any claim that the Commission may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any

such action or claim is undertaken by the Commission, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

B. The Contractor shall give the Commission prompt notice in writing of any public liability claim, as defined in this article, filed against the Contractor. In the event of such claim the Contractor shall furnish promptly to the Commission copies of all pertinent papers received by the Contractor with respect thereto.

11.5 Licensee Indemnity. The indemnity provided by this article shall not apply to public liability arising out of or in connection with any activity that is performed at a licensed facility, and that is covered by a Commission indemnity agreement authorized by Section 170 of the Act.

11.6 Indemnity Not Affected by Other Factors. The obligations of the Commission under this article shall not be affected by any failure on the part of the Contractor to fulfill its obligations under this contract, and shall be unaffected by the death, disability or termination of existence of the Contractor or by the completion, termination or expiration of this contract.

11.7 Amendments. The parties to this contract enter into this article upon the condition that this article may be amended at any time by the mutual written agreement of the Commission and the Contractor and that such amendment may, by its express terms, provide that it will apply to any nuclear incidents which occur thereafter.

11.8 Relationship to Other Contract Provisions. The provisions of this article shall not be limited in any way by, and shall be interpreted without reference to, any other provision of this contract (including Disputes); provided, however, that the following provisions of this contract: Covenant Against Contingent Fees, Officials Not To Benefit, Assignment, Examination of Records, and any provisions later added to this contract which, under applicable Federal law, including statutes, Executive Orders and regulations, are required to be included in agreements of the type contained in this article, shall apply to this article.

ARTICLE XII - NUCLEAR REACTOR SAFETY

12.1 The Contractor recognizes that the activities under this contract involve the risk of a nuclear incident which, while the chances of its occurrence are remote, could adversely affect the public health and safety. In the conduct of its activities hereunder, the Contractor will exercise a degree of care commensurate with the risk involved.

12.2 The Contractor shall comply with all regulations of the Commission concerning nuclear reactor safety and with those requirements (including reporting requirements and instructions) of the Commission concerning nuclear reactor safety of which it is notified in writing by the Contracting Officer.

12.3 Prior to the initial start-up of any nuclear reactor under this contract and prior to any subsequent start-up of a reactor which has been significantly modified, the Contractor shall:

A. Prepare a Hazards Summary Report and detailed plans and procedures designed to assure the safe operation and maintenance of the reactor. These will generally cover, but not be limited to: pre-start-up check lists; normal operation of the reactor and supporting auxiliaries; maintenance operation; emergency situations; and technical standards for equipment and systems;

B. Submit such plans and procedures to, and secure the approval of, the Contracting Officer;

C. Carry out a training program that will assure that all contractor personnel who will be engaged in the operation and maintenance of the nuclear reactor shall understand the approved plans and procedures for nuclear safety to the extent necessary to perform such operation and maintenance safely;

D. Obtain the approval of the Contracting Officer prior to such start-up of the reactor.

As used in this Section 12.3 significant modification of a reactor means any modification of design or operating

condition and procedures which results in a substantial change in the existing safety characteristics of the reactor and which does not clearly result in an improvement in the safety of the system.

12.4 In the operation and maintenance of any nuclear reactor under this contract, the Contractor shall:

A. Use its best efforts to assure that all operational and maintenance activities are performed by qualified and adequately trained personnel and, except as otherwise agreed in writing, are conducted at all times under the supervision of personnel who are qualified to appraise any emergency condition and take prompt effective action with respect thereto.

B. Follow strictly the plans and procedures for nuclear safety approved by the Contracting Officer and submit to the Contracting Officer for his approval any proposed changes in such plans and procedures. The plans and procedures may specify certain areas in which the Contractor may make changes in operating and maintenance procedures and in the facility without approval of the Contracting Officer. All such changes shall be subject to review by a competent, independent, internal organization of the Contractor.

C. Establish a system of inspection approved by the Contracting Officer (including review of inspection reports by competent technical personnel) that will (i) provide frequent and periodic checks of reactor performance and of the qualifications and training of operating and maintenance personnel and (ii) provide for investigation of any unusual or unpredicted reactor conditions that might affect the safe operation of the reactor.

D. Report promptly to the Contracting Officer any change in the physical condition of the reactor or its operating characteristics that might affect the safe operation of the reactor.

E. Shut down the reactor immediately whenever so instructed by the Contracting Officer, or whenever, in the judgment of the Contractor the risk of a nuclear incident endangering persons or property warrants such action.

F. Prepare, in cooperation with other services and facilities available at the site and with the approval of the Contracting Officer, a plan for minimizing the effects of a nuclear incident upon the health and safety of the operating personnel and the public; instruct the personnel as to their participation in such plan and any personal risk to such personnel that may be involved; and participate in such practice exercises as may be desirable to assure the effectiveness of such plans.

12.5 Nothing contained in this article shall be deemed to obligate or authorize the Contractor to operate and maintain any nuclear reactor under this contract in violation of the regulatory requirements imposed upon the Contractor under Title 10 CFR 1.115 including any authorization issued thereunder.

ARTICLE XIII - KEY PERSONNEL

Key personnel designated by the Contractor and agreed to by the Commission as responsible for critical development programs shall not be reassigned or removed without the consent of the Contracting Officer unless the Contractor replaces such employee with an employee of substantially equal abilities and qualifications.

ARTICLE XIV - CHANGES

14.1 Changes and Adjustment of Fee. The Contracting Officer may at any time and without notice to the sureties, if any, issue written directions requiring additional work within the general scope of this contract or directing the omission of or variation in work covered by this contract. If any such direction results in a material change in the amount or character of the work described in the article entitled "Nature and Scope of Work", an equitable adjustment of the fixed fee shall be made in accordance with the agreement of the parties and the contract shall be modified in writing accordingly. Any claim by the Contractor for an adjustment under this article must be asserted in writing within thirty (30) days from the date of receipt by the Contractor

of the notification of change unless the Contracting Officer within the said 30 days grants in writing a further specific period of time for asserting the claim. A failure to agree on an equitable adjustment under this article shall be deemed to be a dispute within the meaning of the article entitled "Disputes."

14.2 Work to Continue. Nothing contained in this article shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the requirements of any direction hereunder.

ARTICLE XV - LABOR PROVISIONS

15.1 Construction Subcontracts. Upon request of the Commission and acceptance thereof by the Contractor, the Contractor shall procure by subcontract the construction of new Government-owned facilities or the alteration or repair of Government-owned facilities at the plant. Any subcontract entered into under this paragraph shall be subject to the written approval of the Commission and shall contain the provisions relative to labor and wages required by law to be included in contracts for the construction, alteration and/or repair, including painting and decorating, of a public building or public work.

15.2 Walsh-Healey Public Contracts Act. If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S. Code 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

15.3 Notice of Labor Disputes. Whenever an actual or potential labor dispute is delaying or threatens to delay the performance of the work, the Contractor shall immediately notify the Contracting Officer in writing. Such notice will include all relevant information concerning the dispute and its background.

15.4 Equal Opportunity.

(The following clause is applicable unless this contract is exempt under the rules and regulations of the President's Committee on Equal Employment Opportunity (41 CFR, ch. 60). Exemptions include contracts and subcontracts (i) not exceeding $10,000, (ii) not exceeding $100,000 for standard commercial supplies or raw materials, and (iii) under which work is performed outside the United States and no recruitment of workers within the United States is involved.)

During the performance of this contract, the Contractor agrees as follows:

A. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination article.

B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

C. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under this nondiscrimination article, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The Contractor will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

E. The Contractor will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

F. In the event of the Contractor's noncompliance with the nondiscrimination article of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

G. The Contractor will include the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so

that such provisions will be binding upon each subcontractor or vendor.[1] The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15.5 Contract Work Hours Standards Act - Overtime Compensation.

This contract, to the extent that it is of a character specified in the Contract Work Hours Standards Act (40 U.S.C. 327-330), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

A. Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such

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[1] Unless otherwise provided, the 'Equal Opportunity' article is not required to be inserted in subcontracts below the second tier except for subcontracts involving the performance of 'construction work' at the 'site of construction' (as those terms are defined in the Committee's rules and regulations) in which case the article must be inserted in all such subcontracts. Subcontracts may incorporate by reference the 'Equal Opportunity' article.

workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph A, the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph A in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph A.

C. Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government prime contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph B.

D. Subcontracts. The Contractor shall insert paragraphs A through D of this article in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

E. Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract.

ARTICLE XVI - SPECIAL PROPERTY PROVISIONS

16.1 Santa Susana Triangle Site. It is recognized that pursuant to the terms and conditions of Contract AT(04-3)-49 between the parties hereto, Contractor has made a substantial contribution to the cost of carrying on the work under said contract, and that part of said contribution is represented

by certain property, real and personal, title to which remains in the Contractor, located at the "site" known as the Santa Susana Triangle.

16.2 Government's Option to Purchase Contractor's Property. The term "Site" as used in this article is defined in the attached Appendix B which is incorporated by reference in and hereby made a part of this contract. The Government, at any time prior to six months after the expiration or termination of this contract, shall have the option to purchase the Site and special facilities located thereon (which the Contractor furnished) for an amount equal to the cost to the Contractor of the Site, plus the unamortized cost of such facilities and the unreimbursed reasonable costs of maintaining the Site and such special facilities incurred by the Contractor after the expiration or termination of this contract; provided, however, that in the event that the Contractor does not exercise its option under Section 16.3, the Government shall have the further option for a period of six months after the expiration of the Contractor's option to purchase such property for the above-mentioned amount.

16.3 Contractor's Option to Purchase. In the event that the Government does not exercise its first option set forth above in Section 16.2, the Contractor shall have a six months' option to the extent not prohibited by then applicable laws, security and patent regulations, requirements and policies of the Government, to purchase all Government property on the site in the possession or custody of the Contractor for the performance of the work under this contract (except source and special nuclear materials, patent rights and drawings, designs, specifications, data, notebooks, reports, memoranda, etc., acquired by the Government pursuant to this contract and its predecessors), at a price to be agreed upon by the parties as representing the fair value thereof, provided, however, that in arriving at fair value, the estimated remaining useful value of the special facilities as agreed to by the parties shall be an element thereof. If thirty (30) days prior to the expiration of the Contractor's option, the Government and the Contractor have not yet arrived at agreement as to the fair value thereof, the Government shall notify the Contractor of the amount which the Government determines to be the fair value of such property and for which the Government will sell such property to the Contractor. The amount of the agreed fair value of any such property acquired by the Contractor shall be credited to the account of the Government as the Commission may direct.

16.4 Disposition of Government Property - Abandonment

A. The Commission may, at any time during the six (6) months period following the expiration or termination of this Contract No. AT-11-1-Gen-8, direct the Contractor, at the sole cost of the Government, to remove and return to the Commission all or any of the Government property, as described in Section 16.3 above, in the possession or custody of the Contractor or to dispose of such property to others upon such terms and conditions as the Commission may require.

B. In the event that the Government does not exercise its further option set forth in Section 16.2, the Government may, for a period of sixty (60) days after the end of such option period, direct the Contractor at the sole cost of the Government to remove and return to the Government all or any of the Government property as described in Section 16.3 above, in the possession or custody of the Contractor or to dispose of such property to others upon such terms and conditions as the Commission may require. If at the end of the sixty-day period the Government has not given the Contractor any such instructions, such Government property (or such part as to which no instructions have been received), except source and special nuclear materials, and any other property, title to which may not be disposed of by the Government, shall be deemed, as of such sixtieth day, to be permanently abandoned by the Government to the Contractor, and neither party shall be under any obligation to the other on account of such abandonment.

C. Amounts received by the Contractor as the result of any disposition of such Government property to others pursuant to subsection 16.4.A. or subsection 16.4.B. shall be credited to the account of the Government as the Commission may direct.

16.5 Site Control

A. (1) The Contractor shall use its best efforts to design all facilities which are to be constructed within the site so that the level of radiation at the boundaries of the site shall not exceed the permissible levels of radiation under applicable Federal Regulations.

(2) The Contractor will consult with the Commission before making any material change in the usage of Contractor-owned property adjacent to the site and will use its best efforts to preclude occupancy which would limit the Commission's intended use of facilities located on the Site.

B. Easements and Rights of Way

(1) The Contractor agrees to provide to the Commission necessary ingress and egress to the Site during the period of this contract and in the event the Commission exercises either option set forth in Section 16.2, the Contractor agrees to provide to the Commission, its successors and assigns, (i) the right of permanent ingress and egress over the road designated as Black Canyon Road, and the road between points A, B, C, D, and E on Survey #49143, as described in Appendix B hereto, and thence to the option site and (ii) such rights over other roads providing ingress and egress to the Site as the Contractor may then have the right to transfer to the Government.

(2) In the event the Commission exercises either option set forth in Section 16.2, the Commission agrees to provide the Contractor, its successors and assigns such easements on and across the Site as are reasonably necessary to the Contractor's activities carried on in the general vicinity of the Site and which do not unreasonably interfere with the Commission activities on the Site, such easements shall include but are not limited to the following: (i) the necessary ingress and egress to use, service, and maintain the existing water tanks (located approximately 6,945 feet West and 4,424 feet North of the Southeast corner of Parcel 1 of Survey #49143 and associated water system; (ii) the necessary ingress and egress to use, service, and maintain the existing electrical substation (located approximately 6,181 feet West and 3,928 feet North of the aforesaid Southeast corner of Parcel 1 of Survey #49143) and associated electrical distribution lines; (iii) a right of way approximately 60 feet wide for road purposes and associated drainage and for utility lines, running in a northeasterly direction across the southeast portion of the Site.

C. The Contractor, its successors and assigns, during a period of ten (10) years after the expiration or termination of this Contract No. AT-11-1-Gen-8, in the event that the Government exercises either option set forth in Section 16.2, shall provide to the Commission, its successors and assigns, at cost, to the extent requested by any one of them, and to the extent water is available from all or any part of the water supply system or systems utilized by the Contractor, its successors and assigns, for the property now owned by the Contractor in the Santa Susana area, shown on aforesaid Survey #49143 (except such portion thereof as may hereafter be owned by the Government), up to 100,000 gallons of water per day at the Site. The Contractor for itself, its successors and assigns further agrees to permit any public utility willing and able to supply such amount of water to the Site to tie into the Contractor's water distribution system, as the same may then be constituted, in a manner satisfactory to supply water to the Site and from and after the time such amount of water is supplied to the Site by a public utility, the obligations of the Contractor, its successors and assigns with regard to the supply of water to the Site shall cease.

D. In the event the Government exercises either option set forth in Section 16.2 of this article, the Commission, its successors and assigns, shall have the right during a period of ten (10) years after the expiration or termination of Contract No. AT-11-1-Gen-8, to discharge into the Contractor's sewerage system servicing the Site at no direct cost, a maximum of either 9,440 gallons of sewage per day (2/5 of the total existing sewage capacity of 23,600 gallons as of December 1961) or that amount of sewage produced by not more than 375 people whichever is less, originating from the Site, to the extent permitted by applicable law. Notwithstanding the foregoing, the Commission shall have the right to discharge sewage in excess of the above-mentioned amount originating from the Site, so long as the amount of such sewage and the sewage arising out of the Contractor's activities does not exceed the total capacity of the Contractor's sewerage system.

E. In the event the Government exercises either option set forth in Section 16.2, the Contractor shall provide to the Government any easements required to enable a public utility to supply electricity to the Site.

F. The Contractor further agrees that, at the request of the Commission, it will execute a document or documents setting forth the agreements contained in Sections 16.2 and 16.5 in such form as will permit the recording of such document or documents for the purpose of giving constructive notice to the public at large.

16.6 Other Use of Facilities

A. The Contractor, during the term of this Contract No. AT-11-1-Gen-8 shall afford Commission contractors or designees such access to all facilities and Government property on the Site as the Commission deems appropriate and shall consult with such persons and assist in their orientation. The Commission shall endeavor to schedule the visits of such persons so as to avoid undue interference with the work under this contract.

B. Subject to the prior written approval of the Commission and to such conditions, including payments to the Government as the Commission may require, the Contractor may utilize the facilities provided hereunder in connection with work other than work under this contract.

16.7 Maintenance of Property. Upon the expiration or termination of this contract and until the Government or the Contractor exercises its options set forth in this article or the Government abandons its property pursuant to Section 16.4, the Contractor shall, as directed by the Government, maintain Government property in its custody and possesssion and the special facilities furnished by it in accordance with the provision of this contract entitled "Property."

ARTICLE XVII - CONTRACTS WITH THIRD PARTIES; SUBCONTRACTING AND PURCHASING

17.1 The Contractor may, and shall when directed by the Contracting Officer, enter into contracts (including subcontracts and purchase orders) in writing with third parties for the performance of any part of the work under Article III of this prime contract. The methods, practices, or procedures used or to be used by the Contractor in contracting with third parties and in purchasing are or will be set forth in detail in Section 1. of the Contractor's Atomics International Division Material Division Manual which, together with all revisions thereof, shall be subject to the prior written approval of the Contracting Officer. No contract or purchase order shall be entered into by the Contractor for items the purchase of which is expressly prohibited by written directions of the Contracting Officer.

17.2 Except as otherwise authorized by the Contracting Officer, the said Manual will provide that:

A. The following contracts, the costs of which are chargeable directly to this prime contract, shall be subject to prior written approval of the Contracting Officer:

(1) Fixed-price contracts over $25,000.00.

(2) Cost-type, time-and-material, or labor-hour contracts over $500.00.

(3) Leases or rentals of personal property for use by Atomics International Division over $1,000.00.

(4) Contracts providing for the purchase of patents or patent licenses, or for the direct payment of patent royalties.

(5) Contracts containing any restriction on the use or dissemination of supplies or technical information called for under the contract except as provided in Article XXV.

(6) Consultant or architect-engineer contracts.

(7) Contracts involving correction of an alleged mistake in a bid where the mistake exceeds $50.00 and is not an obvious clerical error.

(8) Research and development contracts.

B. Changes. Changes or modifications to contracts approved pursuant to 17.2.A (other than contracts of the types described in item (7)) shall be subject to prior written approval of the Contracting Officer; provided, however, that in contracts of the types described in items (1) through (3) of 17.2.A, such prior written approval shall be required only if the changes increase the then current contract price by more than ten percent (10%) and by more than $100.00. Changes or modifications to a contract not previously approved which make it a contract of the type described in 17.2.A shall also be subject to prior written approval.

17.3 Unless otherwise approved in writing by the Contracting Officer, all contracts with third parties under this contract including subcontracts and purchase orders (except contracts of employment) shall be reduced to writing, shall be made in the name of the Contractor, shall not bind or purport to bind the Government or the Commission (except purchase orders against Government sources of supply), and shall not relieve the

Contractor of any obligation under this prime contract (including, among other things, the obligation properly to supervise and coordinate the work of subcontractors). All contractual commitments under this prime contract shall be in such form and contain such provisions as are required by this contract.

ARTICLE XVIII - REQUIRED BONDS AND INSURANCE

As a minimum, the Contractor shall procure and maintain such bonds and insurance as are required by law or by the written directions of the Contracting Officer, and the terms of such bonds and insurance policies, the costs of which are charged to the contract as a direct charge, shall be submitted to the Contracting Officer for prior approval. The Contractor shall notify the Contracting Officer promptly of the types of other bonds and insurance procured or maintained, for the cost of which the Contractor will request reimbursement either directly or indirectly. In view of the article of this contract entitled "Property," the Contractor shall not be reimbursed for the cost of any insurance (including self-insurance or reserves) covering loss or destruction of or damage to Government-owned property.

ARTICLE XIX - PROPERTY

19.1 Furnishing of Government Property. The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

19.2 Title to Property. Title to all property furnished by the Government shall remain in the Government except as otherwise provided herein. Except as otherwise provided by the Contracting Officer, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass directly from the vendor to the Government. The Government reserves the right to inspect, and to accept or reject, any item of such property. The Contractor shall make such disposition of rejected items as the Contracting Officer shall direct. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the

performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs. Property furnished by the Government and property purchased or furnished by the Contractor title to which vests in the Government under this Section 19.2 are hereinafter referred to as Government Property. Title to Government Property shall not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

19.3 Identification. To the extent directed by the Contracting Officer, the Contractor shall identify Government Property coming into the Contractor's possession or custody by marking or segregation in such a way, satisfactory to the Contracting Officer, as shall indicate its ownership by the Government.

19.4 Disposition. The Contractor shall make such disposition of Government Property which has come into the possession or custody of the Contractor under this contract as the Contracting Officer shall direct. When authorized in writing by the Contracting Officer during the progress of the work or upon completion or termination of this contract, the Contractor may, upon such terms and conditions as the Contracting Officer may approve, sell or exchange such property, or acquire such property at a price agreed upon by the Contracting Officer and the Contractor as the fair value thereof. The amount received by the Contractor as the result of any disposition, or the amount of the agreed fair value of any such property acquired by the Contractor, shall be applied in reduction of costs allowable under this contract, or shall be otherwise credited to account of the Government, as the Contracting Officer may direct. Upon completion of the work or the termination of this contract the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government Property which has come into the possession or custody of the Contractor under this contract.

19.5 Protection of Government Property - Classified Materials. The Contractor shall take all reasonable precautions, as directed by the Contracting Officer, or in the absence of

such directions in accordance with sound industrial practice, to safeguard and protect Government Property in the Contractor's possession or custody. Special measures shall be taken by the Contractor in the protection of and accounting for any classified or special materials involved in the performance of this contract, in accordance with the regulations and requirements of the Commission.

19.6 Risk of Loss of Government Property. The Contractor shall not be liable for loss or destruction of or damage to Government property in the Contractor's possession unless such loss, destruction or damage results from wilful misconduct or lack of good faith on the part of the Contractor's managerial personnel, or unless such loss, destruction or damage results from a failure on the part of the Contractor's managerial personnel, to take all reasonable steps to comply with any appropriate written directives of the Contracting Officer to safeguard such property under Section 19.5 hereof. The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of (1) all or substantially all of the Contractor's business; or (2) all or substantially all of the Contractor's operation at any one plant or separate location at which this contract is being performed; or (3) a separate and complete major industrial operation in connection with the performance of this contract; or (4) a separate and complete major construction, alteration or repair operation in connection with performance of this contract.

19.7 Steps to be Taken in Event of Loss. Upon the happening of any loss or destruction of or damage to Government Property in the possession or custody of the Contractor, the Contractor shall immediately inform the Contracting Officer of the occasion and extent thereof, shall take all reasonable steps to protect the property remaining, and shall repair or replace the lost, destroyed, or damaged property if and as directed by the Contracting Officer, but shall take no action prejudicial to the right of the Government to recover therefor and shall furnish to the Government on request all reasonable assistance in obtaining recovery.

19.8 Government Property for Government Use Only. Government Property shall be used only for the performance of this contract and such other Government contracts as authorized by

the Contracting Officer or for such other uses as may be provided for in any other agreements between the Contractor and the Government.

19.9 Source and Special Nuclear Material. The Contractor shall establish and maintain a system of control over source and special nuclear material furnished by the Government under this contract. This system shall be capable of providing current and accurate quantitative information concerning the receipt, the disposition and the availability of such materials. Where applicable, these data shall be generated from appropriate measurement and analytical procedures. The Contractor's system and methods shall be subject to review and approval by the Commission. The Contractor shall segregate and accumulate all economically recoverable source and special nuclear materials generated under this contract and shall periodically report such scrap to the Commission. Further disposition of such materials shall be at the Commission's direction; provided, however, that any reprocessing by the Contractor of these materials shall be subject to mutual agreement of the parties.

19.10 Unless otherwise agreed, all source and special nuclear material required for the performance of this contract shall be supplied by the Commission in the form of UF-6.

19.11 The Commission shall have the right to inspect, verify and survey all source and special nuclear material held by the Contractor under this contract or otherwise.

ARTICLE XX - SECURITY

20.1 Contractor's Duty to Safeguard Restricted Data and Other Classified Information. In the performance of the work under this contract the Contractor shall, in accordance with the Commission's security regulations and requirements, be responsible for safeguarding restricted data and other classified matter and protecting against sabotage, espionage, loss and theft, the classified documents, materials, equipment, processes, etc., as well as such other material of high intrinsic or strategic value as may be in the Contractor's possession in connection with performance of work under this contract. Except as otherwise expressly provided in the specifications the Contractor shall upon completion or termination of this contract transmit to the Commission any classified matter in the possession of the

Contractor or any person under the Contractor's control in connection with performance of this contract.

20.2 Regulations. The Contractor agrees to conform to all security regulations and requirements of the Commission.

20.3 Definition of Restricted Data. The term "Restricted Data," as used in this article, means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954.

20.4 Security Clearance of Personnel. The Contractor shall not permit any individual to have access to Restricted Data, or other classified information, except in accordance with the Atomic Energy Act of 1954, as amended, and the Commission's regulations or requirements.

20.5 Criminal Liability. It is understood that disclosure of information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any Restricted Data or any top secret, secret, or confidential matter that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, and subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, 68 Stat. 919), (See also Executive Order 10104 of February 1, 1950, 15 F.R. 597).

20.6 Subcontracts and Purchase Orders. Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract. The Contractor will undertake to obtain compliance by its subcontractors with such provisions.

ARTICLE XXI - CLASSIFICATION

In the performance of the work under this contract, the Contractor shall assign classifications to all documents, material and equipment originated or generated by the Contractor in accordance with classification guidance furnished to the Contractor by

the Commission. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material or equipment, shall include a provision to the effect that in the performance of such subcontract or purchase order the subcontractor or supplier shall assign classifications to all such documents, material and equipment in accordance with classification guidance furnished to such subcontractor or supplier by the Contractor.

ARTICLE XXII - ASSIGNMENT

Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the Contractor, except as expressly authorized in writing by the Contracting Officer.

ARTICLE XXIII - ACCOUNTS, RECORDS AND INSPECTION

23.1 Accounts. The Contractor shall maintain a set of accounts, records, documents and other evidence showing and supporting all allowable costs incurred, revenues or other applicable credits, fixed fee accruals, and the receipt, use, and disposition of all Government property coming into the possession of the Contractor under this contract. The system of accounts employed by the Contractor shall be satisfactory to the Commission and in accordance with generally accepted accounting principles consistently applied.

23.2 Inspection and Audit of Accounts and Records. All books of account and records relating to this contract shall be subject to inspection and audit by the Commission at all reasonable times, before and during the period of retention provided for in Section 23.4, and the Contractor shall afford the Commission proper facilities for such inspection and audit.

23.3 Audit of Subcontractors' Records With respect to any subcontracts (including lump-sum or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable by the Contractor to the subcontractor, the Contractor accepts the responsibility for determination of the amount payable. Upon the request of the Contractor, the Commission will conduct or arrange for the conduct of an audit of the costs of the subcontractor.

23.4 Disposition of Records. Except as agreed by the Government and the Contractor, all financial and cost reports, books of account and supporting documents, and other data evidencing costs allowable and revenues and other applicable credits under this contract in the possession of the Contractor relating to this contract shall be preserved by the Contractor for a period of six (6) years after settlement of the contract or otherwise disposed of in such manner as may be agreed upon by the Government and the Contractor

23.5 Reports. The Contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this contract as the Contracting Officer may from time to time require

23.6 Inspections The Commission shall have the right to inspect the work and activities of the Contractor under this contract at such time and in such manner as it shall deem appropriate.

23.7 Subcontracts

A. The Contractor further agrees to require the inclusion of provisions similar to those in Sections 23.1 through 23.7 in the following kinds of subcontracts:

(i) subcontracts under the terms of which costs incurred are a factor in determining the amount payable to the subcontractor.

(ii) subcontracts (under cost-type subcontracts) under the terms of which costs incurred are a factor in determining the amount payable to the sub-subcontractor.

B. Unless otherwise authorized by the Contracting Officer, the Contractor also agrees to require the inclusion of provisions similar to those in Sections 23.2 and 23.6 in all negotiated fixed price subcontracts, wherein competition is not obtained and some form of analysis of cost or pricing information is necessary to determine the contract price to be fair and reasonable.

ARTICLE XXIV - EXAMINATION OF RECORDS

24.1 The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final

payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract (unless the Commission authorizes their prior disposition).

24.2 The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract, unless the Commission authorizes their prior disposition. The term "subcontract" as used in this article excludes (1) purchase orders not exceeding $2,500; and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

24.3 Nothing in this contract shall be deemed to preclude an audit by the General Accounting Office of any transaction under this contract.

ARTICLE XXV - DRAWINGS, DESIGNS, SPECIFICATIONS

25.1 (a) As used in this article, Technical Information shall refer to all drawings, sketches, designs, design data, specifications, notebooks, technical and scientific data, and all photographs, negatives, reports, findings, recommendations, data and memoranda of every description relating thereto, as well as all copies of the foregoing.

(b) Technical Information developed, prepared, or furnished in the performance of the contract (i) shall be subject to inspection by the Commission at all reasonable times, for which inspection the proper facilities shall be afforded the Commission by the Contractor and its subcontractors, (ii) shall be the property of the Government and may be used by the Government for any purpose whatsoever without any claim on the part of the Contractor and its subcontractors and vendors for additional compensation (except for such Technical Information furnished but for which the Contractor has no right to pass title),

and (iii) shall, subject to the right of the Contractor to retain a copy of said Technical Information for its own use, be delivered to the Government or otherwise disposed of by the Contractor either 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 contract. The Contractor's right of retention and use shall be subject to the security and patent provisions, if any, of this contract. Nothing contained in this Section 25.1 shall be construed to grant to the Government any license or right under any United States or foreign patent.

25.2 Certain Technical Information will be limited to use for Governmental purposes only and will be recognized and protected by the Commission as "proprietary company confidential information" of the Contractor or its subcontractors provided that all of the following conditions are met:

A. The Technical Information is not the property of the Government by virtue of any other agreement with the Contractor;

B. The Technical Information was prepared or developed by the Contractor independently of its performance of the work under this contract;

C. The Technical Information is expressly identified as "proprietary company confidential information" or similar written notice is given at the time the Technical Information is made available to the Commission. The failure of the Contractor to identify and specify the particular Technical Information as "proprietary company confidential information" at the time the document containing said information is made available to the Commission shall constitute a waiver of any right in the Contractor to limit the Government's use or public dissemination of the information; and

D. The Technical Information is not already available to the public.

This obligation of the Commission to treat certain specified information "proprietary company confidential information" of the Contractor or its subcontractors shall not preclude

the Commission making such information available to the public to the extent that similar information is prepared, developed, or furnished to the Commission by another source.

25.3 (a) Except as otherwise authorized in writing by the Commission the Contractor will insert a Technical Information provision similar to Section 25.1 in all subcontracts, purchase orders, and consultant agreements which require a patent provision pursuant to Section 9.5. Any such subcontract, purchase order or consulting agreement containing a provision similar to 25.2 will require Commission approval.

(b) Any subcontract or purchase order which requires the original preparation or development and the furnishing of Technical Information, but which does not require a patent provision pursuant to Section 9.5, shall include a provision (i) requiring that the original Technical Information required to be furnished may be used by the Government for any purpose whatsoever without any claim on the part of the subcontractor for any additional compensation, and (ii) a provision similar to Section 25.2.

(c) The requirements of paragraphs (a) and (b) hereof shall not apply to subcontracts or purchase orders not requiring the original development or preparation, and the furnishing of Technical Information, such as subcontracts or purchase orders for standard commercial items or supplies. The Contractor may recognize as "proprietary company confidential information" any Technical Information furnished under such a subcontract or purchase order provided such Technical Information is submitted in accordance with and meets the requirements of Section 25.2.

(d) Any Technical Information furnished under any subcontract or purchase order may be used by the Government for any purpose whatsoever without any claim on the part of the subcontractor for any additional compensation unless such technical information is submitted in accordance with and meets the requirements of Section 25.2. A provision similar to Section 25.2 hereof may be inserted by the Contractor under appropriate circumstances in all subcontracts and purchase orders performed under this contract, but will not be employed as a routine procurement procedure except as provided by paragraph (b) above.

25.4 Nothing contained in this article shall in any way be deemed to change the rights of the parties in Technical Information existing and reserved under prior provisions of this contract.

ARTICLE XXVI - STATE AND LOCAL TAXES

The Contractor agrees to notify the Contracting Officer of any tax, fee, or charge (a) from which the Contractor knows or should reasonably have known exemption is granted by State or local law, or (b) which in the opinion of the Contractor or under the position of the Commission as communicated to the Contractor, is inapplicable or invalid under any provision of the Constitution of the United States levied or purported to be levied on the Contractor in respect of this contract and to refrain from paying any such tax, fee, or charge unless otherwise authorized by the Contracting Officer. The Contractor further agrees to take such steps as may be required by the Contracting Officer to cause any such tax, fee, or charge to be paid under protest and, if so directed by the Contracting Officer, to cause to be assigned to the Government or its designee any and all rights to the abatement or refund of any such tax, fee, or charge, or to permit the Government to join with the Contractor in any proceeding for the recovery thereof or to sue for recovery in the Contractor's name. The Government shall save the Contractor harmless from penalties and interest incurred through compliance with this article.

ARTICLE XXVII - LITIGATION AND CLAIMS

27.1 Initiation of Litigation. If the Government requires the Contractor to initiate litigation, or if after notice thereof, the Contracting Officer approves the initiation of litigation by the Contractor, including proceedings before administrative agencies, in connection with this contract, the Contractor shall proceed with the litigation in good faith as directed from time to time by the Contracting Officer.

27.2 Defense and Settlement of Claims. The Contractor shall give the Contracting Officer immediate notice in writing (a) of any action including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, and (b) of any claim against the Contractor the cost and expense of which is allowable under the article of this contract entitled "Allowable Costs and Fixed Fees." Except as otherwise directed by the Contracting Officer in writing, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action or claim. To the extent not in conflict with any applicable

policy of insurance, the Contractor may with the Contracting Officer's approval settle any such action or claim, shall effect at the Contracting Officer's request an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractor, and, if required by the Contracting Officer, shall authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of, any action. If the settlement or defense of an action or claim against the Contractor is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance the Contractor shall with the approval of the Contracting Officer proceed with the defense of the action in good faith, and in such event the defense of the action shall be at the expense of the Government; provided, however, that the Government shall not be liable for such expense to the extent that it would have been compensated for by insurance which was required by law or by the written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

ARTICLE XXVIII - SAFETY, HEALTH AND FIRE PROTECTION

The Contractor shall take all reasonable precautions in the performance of the work under this contract to protect the health and safety of employees and of members of the public and to minimize the danger from all hazards to life and property, and shall comply with all health, safety, and fire protection regulations and requirements (including reporting requirements) of the Commission. In the event that the Contractor fails to comply with said regulations or requirements of the Commission, the Contracting Officer may, without prejudice to any other legal or contractual rights of the Commission, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the discretion of the Contracting Officer. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of or in connection with such work stoppage.

ARTICLE XXIX - PERMITS

Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses and abide by all applicable laws, regulations, and ordinances of the United States and of the State, territory, and political subdivision in which the work under this contract is performed.

ARTICLE XXX - CONTRACTOR'S ORGANIZATION

30.1 Organization Chart. As promptly as possible after the execution of this contract the Contractor shall furnish to the Contracting Officer a chart showing the names, titles, and organization of key personnel to be employed in connection with the work, and shall furnish from time to time supplementary information reflecting changes therein.

30.2 Control of Employees. The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct and integrity and shall be responsible for taking such disciplinary action with respect to his employees as may be necessary. The Contractor shall establish such standards and procedures as are necessary to implement effectively the provisions set forth in Atomic Energy Commission Procurement Regulations Subpart 9-12.54 captioned "Conduct of Employees and Consultants of AEC Cost-Type Contractors and Certain Other Contractors", as issued by the Commission (AECPR Circular No. 25) March 12, 1963; and such standards and procedures shall be subject to the approval of the Contracting Officer.

30.3 Consultant or Other Comparable Employment Services of Contractor Employees. The Contractor shall require all employees who are employed full-time (an individual who performs work under the cost-type contract on a full-time annual basis) or part-time (50 percent or more of regular annual compensation received under terms of a contract with the Commission) on the contract work to disclose to the Contractor all consultant or other comparable employment services which the employees propose to undertake for others. The Contractor shall transmit to the Contracting Officer all information obtained from such disclosures. The Contractor will require any employee who will be employed full time on the contract work to agree, as a condition of his participation in such work, that he will not perform consultant or other comparable employment services for another Commission cost-type contractor under its contract with the Commission except with the prior approval of the Contractor.

ARTICLE XXXI - TERMINATION

31.1 The performance of work under the contract may be terminated by the Government in accordance with this article in whole, or from time to time in part, (a) whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of ten days (or such longer period as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default, or (b) whenever for any reason the Contracting Officer shall determine that such termination is in the best interests of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated,

and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (a) above, it is determined that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor including, but not restricted to acts of God or the public enemy, acts of the Government, acts of another Contractor in the performance of a contract from the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather or delays of subcontractors due to any of such causes unless the Contracting Officer shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule, a notice of termination shall be deemed to have been issued under (b) above and the rights and obligations of the parties hereto shall in such event, be governed accordingly.

31.2 After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall (a) stop work under the contract on the date and to the extent specified in the Notice of Termination; (b) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; (c) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination; (d) assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the orders or subcontracts so terminated in which case the Government shall have the right, in its discretion to settle or pay any or all claims arising out of the termination of such orders and subcontracts; (e) with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this article, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or in part, in accordance with the provisions of this contract; (f) transfer title (to the extent that title has not already been transferred) and in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the

Notice of Termination, (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (iii) the jigs, dies, and fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract; (g) use its best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in provision (f) of this Section 31.2; provided, however, that the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct; (h) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and (i) take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of the fixed-fee, or any item of reimbursable cost, under this article. At any time after expiration of the plant clearance period (See AEC Manual Chapter 9112 for definition), the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same, provided that the lists submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

31.3 After receipt of a Notice of Termination, the Contractor shall continue to submit cost vouchers for costs reimbursable under the contract and shall submit to the Contracting Officer, in the form and with the certification prescribed by the Contracting Officer, a proposal for adjustment of the fixed fee by reason of the termination. Such proposal shall be submitted promptly but in no event later than six months from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such six-month period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may review and act upon any such proposal at any time after such six-month period or any extension thereof. Upon failure of the Contractor to submit its proposal within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount of fee, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

31.4 In the event of the termination of performance of work under this contract, full and complete settlement of all claims of the Contractor with respect to the terminated work shall include the following:

A. All costs and expenses reimbursable in accordance with this contract, not previously paid to the Contractor, for the performance of this contract prior to the effective date of the Notice of Termination and such of these costs as may continue for a reasonable time thereafter with the approval of or as directed by the Contracting Officer, provided, however, that the Contractor shall proceed as rapidly as practicable to discontinue such costs.

B. So far as not included under Subsection 31.4.A., the cost of paying and settling claims arising out of the termination of work under subcontracts or orders, as provided in provision (e) of Section 31.2, which are properly chargeable to the terminated portion of the contract.

C. The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of the settlement claim

and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory; provided, however, that if the termination is for default of the Contractor there shall not be included any amounts for the preparation of the Contractor's settlement proposal.

D. A portion of the fixed fee payable under the contract, determined as follows:

(1) In the event of the termination of this contract for the convenience of the Government and not for the default of the Contractor, a percentage of the fee equivalent to the percentage of the completion of work contemplated by the contract, less fixed-fee payments previously made hereunder.

(2) In the event of the termination of this contract for the default of the Contractor, such proportionate part of the fee (or, if this contract calls for articles of different types, of such part of the fee as is reasonably allocable to the type of articles under consideration) as the total number of articles delivered to and accepted by the Government bears to the total number of articles of a like kind called for by this contract. The amount so determined shall be reduced by the amount of fixed-fee payments previously made.

Subject to the provision of Section 31.3 the Contractor and the Contracting Officer may agree upon the reduced amount to be paid the Contractor as the allowance for fixed fee by reason of the total or partial termination of work pursuant to this article. The contract shall be amended accordingly.

If the amount determined under this Section 31.4 is less than the total payment of fixed fee theretofore made to the Contractor, the Contractor shall repay to the Government the excess amount.

The Contractor shall have the right of appeal, under the article of this contract entitled "Disputes," from any

fee determination made by the Contracting Officer under this Section 31.4, except that if the Contractor has failed to submit its proposal for fee adjustment within the time provided in Section 31.3 and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due as the allowance for fee, the Government shall pay to the Contractor the following: (a) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (b) if an appeal has been taken, the amount finally determined on such appeal.

31.5 In arriving at the amount due the Contractor under this article there shall be deducted (a) all unliquidated advance or other unliquidated payments theretofore made to the Contractor, (b) any claim which the Government may have against the Contractor in connection with this contract, including any claim for damages by reason of default, and (c) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to this article and not otherwise recovered by or credited to the Government.

31.6 In the event of a partial termination, the portion of the fixed-fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

31.7 The clauses of this article relating to the fixed-fee shall be inapplicable if this contract does not provide for payment of a fixed-fee.

31.8 Unless otherwise provided for in this contract, or by applicable statute, the Contractor from the effective date of termination and for a period of six years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor, but without direct charge to the Government, all its books, records, documents, and other evidence bearing on the cost and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

ARTICLE XXXII - BUY AMERICAN ACT

32.1 In acquiring end products, the Buy American Act (41 U. S. Code 10a-d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

A. "Components" means those articles, materials, and supplies, which are directly incorporated in the end products;

B. "End products" means those articles, materials, and supplies, which are to be acquired under this contract for public use; and

C. A "domestic source end product" means

(1) an unmanufactured end product which has been mined or produced in the United States, and

(2) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 per cent of the costs of all its components. For the purposes of this Subsection 32.1.C.(2), components of foreign origin of the same type or kind as the products referred to in Subsections 32.2.B. or C. shall be treated as components mined, produced, or manufactured in the United States.

32.2 The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

A. Which are for use outside the United States;

B. Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

C. As to which the Commission determines the domestic preference to be inconsistent with the public interest;

D. As to which the Commission determines the cost to the Government to be unreasonable.

ARTICLE XXXIII - OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE XXXIV - COVENANT AGAINST CONTINGENT FEES

34.1 Warranty - Termination or Deduction for Breach. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

34.2 Subcontracts and Purchase Orders. Unless otherwise authorized by the Contracting Officer in writing the Contractor shall cause provisions similar to the foregoing to be inserted in all subcontracts and purchase orders entered into under this contract.

ARTICLE XXXV - DISPUTES

35.1 Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Commission. The decision of the Commission or its duly authorized representatives for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or

so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

35.2 This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in Section 35.1; Provided, that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

ARTICLE XXXVI - RENEGOTIATION

If this contract is subject to the Renegotiation Act of 1951, as amended, the following provisions shall apply:

36.1 This contract is subject to the Renegotiation Act of 1951, as amended (P.L. 9, 82d Cong., 65 Stat. 7; P.L. 764, 83d Cong., 68 Stat. 1116; P.L. 216, 84th Cong., 69 Stat. 447; P.L. 870, 84th Cong., 70 Stat. 786; 86th Cong., 72 Stat. 1789; 86th Cong., 73 Stat. 210; P.L. 520, 87th Cong., 76 Stat. 134) and shall be deemed to contain all the provisions required by section 104 of said Act.

36.2 The Contractor agrees to insert the provisions of this clause, including this paragraph 36.2, in all subcontracts, as that term is defined in section 103g of the Renegotiation Act of 1951.

ARTICLE XXXVII - USE OF CONCERNS IN LABOR SURPLUS AREAS

It is the policy of the Government to place contracts with concerns which will perform such contract substantially in areas of persistent or substantial labor surplus where this can be done, consistent with the efficient performance of the contract, at prices no higher than are obtainable elsewhere. The Contractor agrees to use its best efforts to place its subcontracts in accordance with this policy. In complying with the foregoing and with Section 38.2, the Contractor, in placing its subcontracts, shall observe the following order of preference:

A. persistent labor surplus area concerns which are also small business concerns;

B. other persistent labor surplus area concerns;

C. substantial labor surplus area concerns which are also small business concerns;

D. other substantial labor surplus area concerns; and

E. small business concerns which are not labor surplus area concerns.

ARTICLE XXXVIII - USE OF SMALL BUSINESS CONCERNS

38.1 It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

38.2 The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

ARTICLE XXXIX - PURCHASES FROM CONTRACTOR-CONTROLLED SOURCES

39.1 All solicitation of competitive bids for equipment, materials and supplies of the kind and character manufactured or sold by the divisions, or affiliates of the Contractor, all evaluation thereof, and all awards shall be made solely by or with approval of the Contracting Officer, unless otherwise authorized by the Contracting Officer. In all such cases in which the Contractor has design responsibility, the Contractor shall prepare proper specifications, drawings, and such other data as may be necessary, on a basis which will permit fair and open competition and orderly and timely procurement with relation to the work.

39.2 The Contractor may procure on a negotiated basis, subject to the limitations in this Section 39.2 and subsections 39.2.A. or B. as applicable, materials, supplies, equipment, or services manufactured or sold by the Contractor's divisions, or affiliates from such divisions, or affiliates; provided, however, that unless otherwise authorized by the Contracting Officer, no such procurement shall be made by

the Contractor without prior approval of the Contracting Officer.

A. Standard commercial articles and standard supplies (of contractor-controlled sources, other than those manufactured or produced within the contracting component) which have published unit prices of less than one hundred dollars ($100), or such higher amount as may be approved by the Contracting Officer, may be transferred and charged at amounts not in excess of (i) the net sales price concurrently charged the most favored non-affiliated customer for such articles in the same quantities, or (ii) the lowest net sales price at which equivalent articles are available from other sources, whichever is lower in price without further negotiation as to unit price. If the Contractor does not meet this requirement, any excess cost occasioned thereby is unallowable. The Contracting Officer may require use of the equivalent articles available from other sources at a lower price or the solicitation of competitive bids from other suppliers of such articles. "Standard commercial articles" are those produced by the Contractor in the normal course of business, carried in stock or previously manufactured on a production basis, and having catalog item numbers and prices; "Standard supplies" are those carried in stock for use in normal operation.

B. All other articles produced or services performed by Contractor controlled sources shall be provided on the basis of allowable cost without additional fee, and subject to the terms of this contract; provided, however, that if mutually agreed, they may be furnished at fixed prices firmed at the outset; provided further, that any such fixed prices shall be negotiated on the basis of estimated allowable costs under this contract, without profit.

ARTICLE XL - PRIORITIES, ALLOCATIONS, AND ALLOTMENTS

The Contractor shall follow the provisions of DMS Regulation 1 and all other applicable regulations and orders of the Business and Defense Service Administration in obtaining controlled materials and other products and materials needed to fill this contract.

ARTICLE XLI - LABOR SURPLUS AREA SUBCONTRACTING PROGRAM

41.1 Establishment of Program. The Contractor agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Contractor shall--

A. Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matters, (ii) supervise compliance with the Utilization of Concerns in Labor Surplus Areas clause, and (iii) administer the Contractor's "Labor Surplus Area Subcontracting Program";

B. Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

C. Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns;

D. Maintain records showing procedures which have been adopted to comply with the policies set forth in this clause; and

E. Include the Utilization of Concerns in Labor Surplus Areas clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

41.2 Definition of Labor Surplus Area Concern. A "labor surplus area concern" is a concern which will perform, or cause to be performed, a substantial proportion of any contract awarded to it in "Areas of Substantial Labor Surplus" (also called "Areas of Substantial Unemployment"), as designated by the Department of Labor. A concern shall be deemed to perform a substantial proportion of a contract in a labor surplus area if the costs that the concern will incur on account of manufacturing or production performed in persistent or substantial labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 per cent of the price of such contract.

41.3 Inclusion of Article in Subcontract. The Contractor further agrees to insert, in any subcontract hereunder which may exceed $500,000 and which contains the Utilization of Concerns in Labor Surplus Areas clause, provisions which shall conform substantially to the language of this clause, including this Section 41.3, and to notify the Contracting Officer of the names of such subcontractors.

ARTICLE XLII - SMALL BUSINESS SUBCONTRACTING PROGRAM

42.1 Establishment of Program. The Contractor agrees to establish and conduct a small business subcontracting program which will enable small business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall--

A. Designate a liaison officer who will (i) maintain liaison with the Government on small business matters, (ii) supervise compliance with the Utilization of Small Business Concerns clause, and (iii) administer the Contractor's "Small Business Subcontracting Program."

B. Provide adequate and timely consideration of the potentialities of small business concerns in all "make-or-buy" decisions.

C. Assure that small business concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of small business concerns. Where the Contractor's lists of potential small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

D. Maintain records showing (i) whether each prospective subcontractor is a small business concern, (ii) procedures which have been adopted to comply with the policies set forth in this clause, and (iii) with respect to the letting of any subcontract (including purchase orders) exceeding $10,000, information substantially as follows:

(1) Whether the award went to large or small business.

(2) Whether less than three or more than two small business concerns were solicited.

(3) The reason for non-solicitation of small business if such was the case.

(4) The reason for small business failure to receive the award if such was the case when small business was solicited.

The records maintained in accordance with (iii) above may be in such form as the Contractor may determine, and the information shall be summarized quarterly and submitted by the purchasing department of each individual plant or division to the Contractor's cognizant small business liaison officer. Such quarterly summaries will be considered to be management records only and need not be submitted routinely to the Government; however, records maintained pursuant to this clause will be kept available for review.

E. Notify the Contracting Officer before soliciting bids or quotations on any subcontract (including purchase orders) in excess of $10,000 if (i) no small business concern is to be solicited, and (ii) the Contracting Officer's consent to the subcontract (or ratification) is required by a "Subcontracts" clause in this contract. Such notice will state the Contractor's reasons for nonsolicitation of small business concerns, and will be given as early in the procurement cycle as possible so that the Contracting Officer may give SBA timely notice to permit SBA a reasonable period to suggest potentially qualified small business concerns through the Contracting Officer. In no case will the procurement action be held up when to do so would, in the Contractor's judgment, delay performance under the contract.

F. Include the Utilization of Small Business Concerns clause in subcontracts which offer substantial small business subcontracting opportunities.

G. Cooperate with the Contracting Officer in any studies and surveys of the Contractor's subcontracting procedures and practices that the Contracting Officer may from time to time conduct.

H. Submit such information on subcontracting to small business concerns as is called for by the Contracting Officer.

42.2 Definition of Small Business Concern.

A "small business concern" is a concern that meets the pertinent criteria established by the Small Business Administration and set forth in Section 1-1.701 of the Federal Procurement Regulations.

42.3 Termination.

The Contractor agrees that, in the event he fails to comply with his contractual obligations concerning the small business subcontracting program, this contract may be terminated, in whole or in part, for default.

42.4 Inclusion of Article in Subcontract.

The Contractor further agrees to insert, in any subcontract hereunder which may exceed $500,000 and which contains the Utilization of Small Business Concerns clause, provisions which shall conform substantially to the language of this clause, including this Section 42.4, and to notify the Contracting Officer of the names of such subcontractors.

ARTICLE XLIII - AUTHORIZATION

This contract is authorized by, and has been negotiated and executed under, the Atomic Energy Act of 1954, as amended. All obligations of the Government under this contract shall, except to the extent funds have been obligated hereunder, be subject to the availability of funds appropriated from time to time by the Congress of the United States.

ARTICLE XLIV - ALTERATIONS

The following alterations were made in this contract before it was signed by the parties hereto:

None

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

THE UNITED STATES OF AMERICA

By _____
F. J. W[illegible]
Chicago Operations Office
U. S. Atomic Energy Commission

NORTH AMERICAN AVIATION, INC.

By _____
President
(Title)

I, E. N. Yost, Assistant Secretary, certify that I am ~~the~~ an of the Corporation named as Contractor herein; that J. L. Atwood, President, who signed this contract on behalf of said Corporation was then of said Corporation; that said contract was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(SEAL)

_____
E. N. Yost

AT-11-1-GEN-8
MOD 2

not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

3. Identification - To the extent directed by the Contracting Officer, the Contractor shall identify Government Property coming into the Contractor's possession or custody by marking or segregation in such a way, satisfactory to the Contracting Officer, as shall indicate its ownership by the Government.

4. Disposition - The Contractor shall make such disposition of Government Property which has come into the possession or custody of the Contractor under this contract as the Contracting Officer shall direct. When authorized in writing by the Contracting Officer during the progress of the work or upon completion or termination of this contract, the Contractor may, upon such terms and conditions as the Contracting Officer may approve, sell or exchange such property, or acquire such property at a price agreed upon by the Contracting Officer and the Contractor as the fair value thereof. The amount received by the Contractor as the result of any disposition, or the amount of the agreed fair value of any such property acquired by the Contractor, shall be applied in reduction of costs allowable under this contract, or shall be otherwise credited to account of the Government, as the Contracting Officer may direct. Upon completion of the work or the termination of this contract the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government Property which has come into the possession or custody of the Contractor under this contract.

5. Protection of Government Property - Classified Materials - The Contractor shall take all reasonable precautions, as directed by the Contracting Officer, or in the absence of such directions in accordance with sound industrial practice, to safeguard and protect Government Property in the Contractor's possession or custody. Special measures shall be taken by the Contractor in the protection of and accounting for any source, special nuclear, special reactor, and other special materials involved in the performance of this contract, in accordance with the regulations and requirements of the Commission.

6. Risk of Loss of Government Property - The Contractor shall not be liable for loss or destruction of or damage to Government

property in the Contractor's possession unless such loss, destruction or damage results from wilful misconduct of lack of good faith on the part of the Contractor's managerial personnel, or unless such loss, destruction or damage results from a failure on the part of the Contractor's managerial personnel to take all reasonable steps to comply with any appropriate written directives of the Contracting Officer to safeguard such property under paragraph 5. hereof. The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of (a) all or substantially all of the Contractor's business; or (b) all or substantially all of the Contractor's operation at any one plant or separate location at which this contract is being performed; or (c) a separate and complete major industrial operation in connection with the performance of this contract; or (d) a separate and complete major construction, alteration or repair operation in connection with performance of this contract.

7. Steps to be Taken in Event of Loss. Upon the happening of any loss or destruction of or damage to Government Property in the possession or custody of the Contractor, the Contractor shall immediately inform the Contracting Officer of the occasion and extent thereof, shall take all reasonable steps to protect the property remaining, and shall repair or replace the lost, destroyed, or damaged property if and as directed by the Contracting Officer, but shall take no action prejudicial to the right of the Government to recover therefor and shall furnish to the Government on request all reasonable assistance in obtaining recovery.

8. Government Property for Government Use Only. Government property shall be used only for the performance of this contract and such other Government contracts as authorized by the Contracting Officer or for such other uses as may be provided for in any other agreements between the Contractor and the Government.

ARTICLE XXX - SPECIAL PROPERTY PROVISIONS

1. The terms and conditions of this Article XXX shall be effective July 1, 1958. It is recognized that pursuant to the terms and conditions of Contract AT(04-3)-49 between the parties hereto, Contractor has made a substantial contribution to the cost of carrying on the work under said contract, and that part of said contribution is represented by certain property, real and personal, title to which remains in the Contractor.

2. Government's Option to Purchase Contractor's Property - The term "Site" as used in this article is defined in Appendix A hereto which Appendix is incorporated by reference and made a part hereof. The Government, at any time prior to six months after the expiration or termination of this contract AT-11-1-GEN-8, shall have the option to purchase the Site and special facilities located thereon which the Contractor furnished pursuant to Contract No. AT(04-3)-49 for an amount equal to the cost to the Contractor of the Site, plus the unamortized cost of such facilities and the unreimbursed reasonable costs of maintaining the Site and such special facilities incurred by the Contractor after the expiration or termination of this contract, provided further, in the event that the Contractor does not exercise its option as provided in Section 3. of this Article, the Government shall have the further option for a period of six months after the expiration of the Contractor's option to purchase such property for the above-mentioned amount.

3. Contractor's Option to Purchase. In the event that the Government does not exercise its first option set forth above in Section 2. of this Article, the Contractor shall have a six months' option to the extent not prohibited by then applicable laws, security and patent regulations, requirements and policies of the Government, to purchase all Government property on the site in the possession or custody of the Contractor for the performance of the work under Contract No. AT(04-3)-49 and this Contract No. AT-11-1-GEN-8 (except source and special nuclear materials, patent rights acquired by the Government pursuant to Article XVIII of Contract AT(04-3)-49 and Article XXXVII of Contract No. AT-11-1-GEN-8 and drawings, designs, specifications, data, notebooks, reports, memoranda, etc., acquired by the Government pursuant to Article XXI of Contract AT(04-3)-49 and Article XXXVI of Contract AT-11-1-GEN-8) at a price to be agreed upon by the parties as representing the fair value thereof, provided, however, that in arriving at fair value, the estimated remaining useful value of the special facilities as agreed to by the parties shall be an element thereof. If thirty (30) days prior to the expiration of the Contractor's option, the Government and the Contractor have not yet arrived at agreement as to the fair value thereof, the Government shall notify the Contractor of the amount which the Government determines to be the fair value of such property and for which the Government will sell such property to the Contractor. The amount of the agreed fair value of any such property acquired by the Contractor shall be credited to the account of the Government as the Commission may direct.

4. Disposition of Government Property - Abandonment.

a. The Commission may, at any time during the six (6) months period following the expiration or termination of this Contract No. AT-11-1-GEN-8, direct the Contractor, at the sole cost of the Government, to remove and return to the Commission all or any of the Government property, as described in Section 3. above, in the possession or custody of the Contractor or to dispose of such property to others upon such terms and conditions as the Commission may require.

b. In the event that the Government does not exercise its further option set forth in Section 2. of this Article, the Government may, for a period of sixty (60) days after the end of such option period, direct the Contractor at the sole cost of the Government to remove and return to the Government all or any of the Government property as described in Section 3. above, in the possession or custody of the Contractor or to dispose of such property to others upon such terms and conditions as the Commission may require. If at the end of the sixty-day period the Government has not given the Contractor any such instructions, such Government property (or such part as to which no instructions have been received), except source and special nuclear materials, and any other property, title to which may not be disposed of by the Government, shall be deemed, as of such sixtieth day, to be permanently abandoned by the Government to the Contractor, and neither party shall be under any obligation to the other on account of such abandonment.

c. Amounts received by the Contractor as the result of any disposition of such Government property to others pursuant to a. or b. of this Section shall be credited to the account of the Government as the Commission may direct.

5. Control of Adjacent Property.

a. (1) The Contractor represents and warrants that it has sufficient control over the property designated as "Property Adjacent to the Site" in Appendix A hereto to preclude all persons from occupying such property. The Contractor, its successors and assigns, during the term of this Contract No. AT-11-1-GEN-8 and during a period of 10 years thereafter in the event

that the Government exercises either option set forth in Section 2. of this Article, shall do all things necessary so as to remove all persons, other than those required for work on the Site, from the Property Adjacent to the Site in such manner and at such times as the Commission may from time to time direct when the Commission determines that an actual or potential radiation hazard exists.

The Contractor further agrees that it will not during such period use such property in such a manner as to interfere with activities of the Commission or its successors and assigns at the Site acquired by the Commission pursuant to either option set forth in Section 2. of this Article or to create an unreasonable-hazard with respect to such activities.

(2) The Commission agrees that, in the event that it exercises either option set forth in Section 2. of this Article, it will not thereafter engage in or permit, at the Site acquired by it pursuant to either option, any planned activity which it would be reasonable to expect would substantially exceed in potential hazard the contemplated potential hazard of the Sodium Graphite Reactor Project.

b. <u>Easements and Rights of Way</u>.

(1) The Contractor agrees to provide to the Commission necessary ingress and egress to the Site during the period of this contract No. AT-11-1-GEN-8 and in the event the Commission exercises either option set forth in Section 2. of this Article, the Contractor agrees to provide to the Commission, its successors and assigns, (i) the right of permanent ingress and egress over the road designated as Black Canyon Road, and the road between points A and E on Survey #49143, as described in Appendix A hereto and (ii) such rights over other roads providing ingress and egress to the Site as the Contractor may then have the right to transfer to the Government.

(2) In the event the Commission exercises either option set forth in Section 2. of this Article the Commission agrees to provide the Contractor, its successors and assigns such easements on and across the Site as are reasonably necessary to the Contractor's activities carried on in the general vicinity of the Site and

which do not unreasonably interfere with the Commission activities on the Site, such easements shall include but are not limited to the following: (i) the necessary ingress and egress to use, service, and maintain the existing water tanks (located approximately 6945 feet West and 4424 feet North of the Southeast corner of Parcel 1 of Survey #49143 described in Appendix A) and associated water system; (ii) the necessary ingress and egress to use, service, and maintain the existing electrical substation (located approximately 6181 feet West and 3928 feet North of the aforesaid Southeast corner of Parcel 1 of Survey #49143) and associated electrical distribution lines; (iii) a right of way approximately 60 feet wide for road purposes and associated drainage and for utility lines, running in a northeasterly direction across the southeast portion of the Site.

c. The Contractor, its successors and assigns, during a period of 10 years after the expiration or termination of this Contract No. AT-11-1-GEN-8, in the event that the Government exercises either option set forth in Section 2. of this Article, shall provide to the Commission, its successors and assigns, at cost, to the extent requested by any one of them, and to the extent water is available from all or any part of the water supply system or systems utilized by the Contractor, its successors and assigns, for the property now owned by the Contractor in the Santa Susana area, shown on Aforesaid Survey #49143 (except such portion thereof as may hereafter be owned by the Government), up to 100,000 gallons of water per day at the Site. The Contractor for itself, its successors and assigns further agrees to permit any public utility willing and able to supply such amount of water to the Site to tie into the Contractor's water distribution system, as the same may then be constituted, in a manner satisfactory to supply water to the Site and from and after the time such amount of water is supplied to the Site by a public utility, the obligations of the Contractor, its successors and assigns with regard to the supply of water to the Site shall cease.

d. In the event the Government exercises either option set forth in Section 2. of this Article, the Contractor shall provide to the Government any easements required to enable a public utility to supply electricity to the Site.

e. The Contractor further agrees that, at the request of the Commission, it will execute a document or documents setting forth the agreements contained in Sections 2. and 5. of this Article in such form as will permit the recording of such document or documents for the purpose of giving constructive notice to the public at large.

6. Other Use of Facilities

a. The Contractor, during the term of this contract No. AT-11-1-GEN-8 shall afford Commission contractors or designees such access to the Sodium Graphite Reactor and its auxiliary and special facilities and to all other facilities and Government property on the Site as the Commission deems appropriate and shall consult with such persons and assist in their orientation. The Commission shall endeavor to schedule the visits of such persons so as to avoid undue interference with the work under this contract.

b. Subject to the prior written approval of the Commission and to such conditions, including payments to the Government as the Commission may require, the Contractor may utilize the facilities provided hereunder in connection with work other than work under this contract.

7. Maintenance of Property - Upon the expiration or termination of this contract No. AT-11-1-GEN-8 and until the Government or the Contractor exercise their options set forth in this Article or the Government abandons its property pursuant to Section 4. of this Article, the Contractor shall, as directed by the Government, maintain in standby condition Government property in its custody and possession and the special facilities furnished by it, provided, however, that the Contractor's obligations hereunder are subject to the provisions of Article V hereof.

ARTICLE XXXI - TERMINATION

1. The performance of work under the contract may be terminated by the Government in accordance with this provision in whole, or from time to time in part, (a) whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of ten days (or such longer period as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default, or (b) whenever for any reason the Contracting Officer shall determine that such termination is in the best interests of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor

or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (a) above, it is determined that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor including, but not restricted to acts of God or the public enemy, acts of the Government, acts of another contractor in the performance of a contract from the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather or delays of subcontractors due to any of such causes unless the Contracting Officer shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule, a notice of termination shall be deemed to have been issued under (b) above and the rights and obligations of the parties hereto shall, in such event, be governed accordingly.

2. After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall (a) stop work under the contract on the date and to the extent specified in the Notice of Termination; (b) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; (c) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination; (d) assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated in which case the Government shall have the right, in its discretion to settle or pay any or all claims arising out of the termination of such orders and subcontracts; (e) with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this provision, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or in part, in accordance with the provisions of this contract; (f) transfer title (to the extent that title has not already been transferred) and in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (i) the fabricated

or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (iii) the jigs, dies, and fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract; (g) use its best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in provision (f) of this paragraph; provided, however, that the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct; (h) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and (i) take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of the fixed-fee, or any item of reimbursable cost, under this provision. At any time after expiration of the plant clearance period (See AEC Manual Chapter 9112 for definition), the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same, provided that the lists submitted shall be subject to verification by the Contracting Officer upon removal of the

items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

3. After receipt of a Notice of Termination, the Contractor shall continue to submit cost vouchers for costs reimbursable under the contract and shall submit to the Contracting Officer, in the form and with the certification prescribed by the Contracting Officer, a proposal for adjustment of the fixed fee by reason of the termination. Such proposal shall be submitted promptly but in no event later than six months from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such six-month period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may review and act upon any such proposal at any time after such six-month period or any extension thereof. Upon failure of the Contractor to submit its proposal within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount of fee, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

4. In the event of the termination of performance of work under this contract, full and complete settlement of all claims of the Contractor with respect to the terminated work shall include the following:

   a. All costs and expenses reimbursable in accordance with this contract, not previously paid to the Contractor, for the performance of this contract prior to the effective date of the Notice of Termination and such of these costs as may continue for a reasonable time thereafter with the approval of or as directed by the Contracting Officer, provided, however, that the Contractor shall proceed as rapidly as practicable to discontinue such costs.

   b. So far as not included under a. above, the cost of paying and settling claims arising out of the termination of work under subcontracts or orders, as provided in paragraph 2. (e) above, which are properly chargeable to the terminated portion of the contract.

c. The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of the settlement claim and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory; provided, however, that if the termination is for default of the Contractor there shall not be included any amounts for the preparation of the Contractor's settlement proposal.

d. A portion of the fixed fee payable under the contract, determined as follows:

(1) In the event of the termination of this contract for the convenience of the Government and not for the default of the Contractor, a percentage of the fee equivalent to the percentage of the completion of work contemplated by the contract, less fixed-fee payments previously made hereunder.

(2) In the event of the termination of this contract for the default of the Contractor, such proportionate part of the fee (or, if this contract calls for articles of different types, of such part of the fee as is reasonably allocable to the type of articles under consideration) as the total number of articles delivered to and accepted by the Government bears to the total number of articles of a like kind called for by this contract. The amount so determined shall be reduced by the amount of fixed-fee payments previously made.

Subject to the provisions of paragraph 3. the Contractor and the Contracting Officer may agree upon the reduced amount to be paid the Contractor as the allowance for fixed fee by reason of the total or partial termination of work pursuant to this provision. The contract shall be amended accordingly.

If the amount determined under this paragraph is less than the total payment of fixed fee theretofore made to the Contractor, the Contractor shall repay to the Government the excess amount.

The Contractor shall have the right of appeal, under the Article entitled "Disputes," from any fee determination made by the Contracting Officer under this paragraph, except that if the Contractor has failed to submit its proposal for fee adjustment within the time provided in paragraph 3. above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due as the allowance for fee, the Government shall pay to the Contractor the following: (1) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (2) if an appeal has been taken, the amount finally determined on such appeal.

5. In arriving at the amount due the Contractor under this provision there shall be deducted (a) all unliquidated advance or other unliquidated payments theretofore made to the Contractor, (b) any claim which the Government may have against the Contractor in connection with this contract, including any claim for damages by reason of default, and (c) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this Article and not otherwise recovered by or credited to the Government.

6. In the event of a partial termination, the portion of the fixed-fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

7. The provisions of this Article relating to the fixed-fee shall be inapplicable if this contract does not provide for payment of a fixed-fee.

8. Unless otherwise provided for in this contract, or by applicable statute, the Contractor from the effective date of termination and for a period of six years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor, but without direct charge to the Government, all its books, records, documents, and other evidence bearing on the cost and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved

by the Contracting Officer, photographs, micro-photographs, or other authentic reproductions thereof.

9. In the event that the Commission exercises its rights under this Article XXXI to terminate, in whole or in part, the work described in Article II, Section 2.a. of this contract, the work described in Article II, Section 2.b. shall be deemed to be wholly terminated.

ARTICLE XXXII - CONTRACTOR'S ORGANIZATION

1. Organization Chart - As promptly as possible after the execution of this contract the Contractor shall furnish to the Contracting Officer a chart showing the names, duties, and organization of key personnel to be employed in connection with the work, and shall furnish from time to time supplementary information reflecting changes therein.

2. Control of Employees. The Contractor shall be responsible for maintaining satisfactory standard of employee competency, conduct and integrity and shall be responsible for taking such disciplinary action with respect to his employees as may be necessary. In the event the Contractor fails to remove any employee from the contract work whom the Commission deems incompetent, careless or insubordinate, or whose continued employment on the work is deemed by the Commission to be contrary to the public interest, the Commission reserves the right to require the Contractor to remove the employee.

ARTICLE XXXIII - SUBCONTRACTS AND PURCHASE ORDERS

1. The Contractor shall secure the approval of the Contracting Officer prior to entering into purchase orders or subcontracts for such specific classes or types of items of supply for use in performance under this contract as are expressly specified by the written directions of the Contracting Officer when title to such items will vest in the Government in accordance with the terms of this contract. Contractor shall not withdraw from Contractor owned inventories any such classes or types of specified items for use in performance of work hereunder without approval of the Contracting Officer.

2. Except as otherwise directed ~~by the Contracting Officer~~ Phillips, the subcontractor shall submit for the prior written approval of the ~~Contracting~~ Phillips Officer any or all contractual arrangements, (including, but not limited to, subcontracts, or purchase

orders) made pursuant to this contract which ~~(1)~~ is in excess of Ten Thousand Dollars ($10,000) ~~(2) is a cost-reimbursement, cost-plus-a-fixed-fee~~, lump-sum or unit price with escalation provisions or time and material arrangement, (3) is for research and development work, or (4) is for consultants services. The Government reserves the right to require that the Contractor provide information concerning methods, practices, and procedures used or proposed to be used in subcontracting and purchasing. The Contractor shall use methods, practices, or procedures in subcontracting or purchasing which are acceptable to the Commission. Subcontracts and purchase orders shall be made in the name of the Contractor, shall not bind nor purport to bind the Government (except under purchase orders against Government sources of supply), shall not relieve the Contractor of any obligation under this contract (including, among other things, the obligation properly to supervise and coordinate the work of subcontractors), shall be made in writing when in excess of One-Hundred Dollars ($100), and shall be in such form and contain such provisions as are required by this contract or as the Commission may prescribe.

3. Except as may be otherwise agreed, the Contractor shall obtain the approval of the Contracting Officer before (i) making any building alteration or improvement, whether to buildings owned by the Government or others, (ii) constructing new buildings, roads, utilities and appurtenances, or (iii) leasing, purchasing or otherwise acquiring real property, the cost of any of which will be claimed for reimbursement as a direct cost hereunder.

ARTICLE XXXIV - LITIGATION AND CLAIMS

1. Initiation of Litigation: If the Government requires the Contractor to initiate litigation, including proceedings before administrative agencies, in connection with this contract, the Contractor shall proceed with the litigation in good faith as directed from time to time by the Contracting Officer.

2. Defense and Settlement of Claims:

The Contractor shall give the Contracting Officer immediate notice in writing (a) of any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, and (b) of any claim against the Contractor the cost and expense of

which is allowable under the Article entitled "Reimbursable Costs." Except as otherwise directed by the Contracting Officer in writing, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to any such action or claim. To the extent not in conflict with any applicable policy of insurance, the Contractor may with the Contracting Officer's approval settle any such action or claim, shall effect at the Contracting Officer's request an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractor, and, if required by the Contracting Officer, shall authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of, any action. If the settlement or defense of an action or claim against the Contractor is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance the Contractor shall with the approval of the Contracting Officer proceed with the defense of the action in good faith, and in such event the defense of the action shall be at the direct expense of the Government; provided, however, that the Government shall not be liable for such expense to the extent that it would have been compensated for by insurance which was required by law or by the written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

3. Notice of Other Claims. Contractor shall give the Contracting Officer prompt written notice of any uncollectible claim or claims for legal damages in an amount of $1,000 or more which it reasonably believes it may have against its subcontractors or suppliers or others hereunder in connection with or arising from or out of the performance of the work in cases where a claim or action is not asserted against the Contractor and shall in all such cases be governed by the provisions of paragraph 2. above in the same manner as if the word "defend" is read as "prosecute."

ARTICLE XXXV - COPYRIGHTS

1. The Contractor (a) agrees that the Commission shall determine the disposition of the title to and the rights under any

copyright secured by the Contractor or its employees on copyrightable material first produced or composed and delivered to the Government under this contract and (b) hereby grants to the Government a royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use and dispose of, and to authorize others so to do, all copyrighted or copyrightable work not first produced or composed by the Contractor in the performance of this contract but which is incorporated in the material furnished under the contract, provided that such license shall be only to the extent the Contractor now has, or prior to the completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

2. The Contractor agrees that it will exert all reasonable effort to advise the Commission at the time of delivering any copyrightable or copyrighted work furnished under this contract, of any adversely held copyrighted or copyrightable material incorporated in any such work.

3. The Contractor agrees to report in writing to the Commission, promptly and in reasonable written detail, any notice or claim of copyright infringement received by the Contractor with respect to any material delivered under this contract.

ARTICLE XXXVI - DRAWINGS, DESIGNS, SPECIFICATIONS

1. The Contractor agrees to provide the Commission with a final technical report and such other reasonably full and current technical reports relating to the work under the contract as the Commission may reasonably from time to time require.

2. All drawings, sketches, designs, design data, specifications, notebooks, technical and scientific data, and all photographs, negatives, reports, findings, recommendations, data and memoranda of every description relating thereto, as well as all copies of the foregoing developed, prepared or furnished in the performance of the contract (a) shall be subject to inspection by the Commission at all reasonable times, and the Contractor and its subcontractors shall afford the Commission proper facilities for such inspection and (b) shall be the property of the Government (except for such intelligence or information, as described above, furnished but for which the Contractor has no right to pass title) and shall be delivered to the Government, or otherwise disposed of by

the Contractor either 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 contract. Any information contained in any of the foregoing material shall be treated by the Commission as proprietary information of the Contractor provided: (i) that the information is not the property of the federal government by virtue of any other agreement with the Contractor; and (ii) the information was prepared or developed by the Contractor independently of its performance of the work under this contract; and (iii) the particular information is expressly identified as proprietary information of the Contractor at the time the notebook, drawing, sketch, design, photograph, scientific or technical data, specification, memorandum, or report is made available to the Commission. The failure of the Contractor to identify and specify the particular information as proprietary at the time the document containing the information is made available to the Commission shall constitute a waiver of any right in the Contractor to limit the Government's use of the information; and (iv) the information must not already be available to the public. This right in the Contractor shall not preclude the Commission making such information available to the public to the extent that similar information is prepared, developed, or furnished to the Commission by another source.

3. The Government may use any of the above described material for any purpose it sees fit, including the making of such material available to private persons for their own use, without any claim by or on the part of the Contractor for additional compensation, subject however to any rights otherwise reserved to the Contractor under any other article or provision of this contract. The Contractor shall have the right to retain copies of any or all of said material for its own use subject to security restrictions of the Commission and patent provisions of this contract. The Government shall continue to observe the restrictions on its use of Contractor-developed material, if any, as set forth in the last sentence of paragraph 3 on page 4 to Supplemental Agreement No. 19, dated June 24, 1956, paragraph (e) on page 3 of Supplemental Agreement No. 13, dated June 19, 1953, and paragraph 4 on page 2 of Supplemental Agreement No. 29, dated June 29, 1957, with reference to the work therein provided. The foregoing references to supplemental agreements apply to numbered contractual supplements to AT-11-1-GEN-8 prior to this Modification No. 1.

4. In the event that the Commission shall generally give more favorable standard provisions regarding the use of said information to other private contractors engaged in similar undertakings on a substantially comparable basis, it is agreed and understood that this contract shall be appropriately amended to afford the Contractor substantially comparable provisions.

5. The Contractor shall, except to the extent it may be otherwise authorized in writing by the Contracting Officer, insert in all its subcontracts, purchase orders, and consultant agreements hereunder a provision similar to the first paragraph of this Article to effectuate the purpose of this Article. This requirement shall not apply however, to subcontracts or purchase orders for standard commercial items or supplies nor to any other subcontracts not involving production or development of the material listed in Section 1. of this Article.

ARTICLE XXXVII - PATENTS

1. Whenever any invention or discovery is made or conceived by the Contractor or its employees in the course of, in connection with, or under the terms of this contract, the Contractor shall furnish the Commission with complete information thereon; and the Commission shall have the sole power to determine whether or not and where a patent application shall be filed, and to determine the disposition of the title to and rights under any application or patent that may result provided, however, that the Commission, in accordance with the present policy of granting non exclusive, royalty free, licenses for all purposes, will upon request accord the Contractor a non exclusive, royalty free license in and to any such invention or discovery upon the filing of a patent application.

   The judgment of the Commission on these matters shall be accepted as final; and the Contractor, for itself and for its employees, agrees that the inventor or inventors will execute all documents and do all things necessary or proper to carry out the judgment of the Commission. Provided, that in the event the Commission determines not to file a patent application for reasons other than security, the Contractor may file, subject to security restrictions and requirements.

2. No claim for pecuniary award or compensation under the provisions of the Atomic Energy Acts of 1946 and 1954 shall be

asserted by the Contractor or its employees with respect to any invention or discovery made or conceived in the course of, in connection with, or under the terms of this contract subsequent to December 31, 1947.

3. Except as otherwise authorized in writing by the Commission, the Contractor will obtain patent agreements to effectuate the purposes of paragraphs 1. and 2. of this Article from all persons who perform any part of the work under this contract, except such clerical and manual labor personnel as will not have access to technical data.

4. Except as otherwise authorized in writing by the Commission, the Contractor will insert in all subcontracts provisions making this Article applicable to the subcontractor and its employees.

5. The Contractor's obligations hereunder to secure patent agreements and waivers for work between December 31, 1947 and February 28, 1949 and for work under Contract W-33-038-ac-14191 as required by paragraphs 1., 2. and 4. above as applied to former employees and consultants shall be fulfilled by the exercise of reasonable effort to obtain such agreements and waivers.

6. With respect to any invention or discovery made or conceived in the course of performance of the work under Contract No. W-33-038-ac-14191 with the Government relating to the work required or performed thereunder, Contractor agrees to and does hereby sell, assign, and transfer unto the Government, as represented by the Commission, its entire right, title, and interest in and to any and all such inventions or discoveries, and in and to any and all Letters Patent wherever they may be granted thereon, as well as re-issue and extensions of said Letters Patent, in which assignment is merged the existing license in favor of the Government, as represented by the Army Air Forces, the same to be held and enjoyed by the Government to the full end of the term or terms to which Letters Patent are or may be granted, re-issued or extended as fully or entirely as the same would have been held or enjoyed by Contractor had this assignment not been made; provided, however, that Contractor retains to itself, its successors and assigns a non-exclusive, irrevocable, royalty-free license under said inventions, discoveries, or Letters Patent, such license being limited to manufacture, use and sale for purposes other than use in the production or utilization of special nuclear material or atomic energy; provided,

further, that Contractor further reserves to itself, its successors and assigns, a non-exclusive, irrevocable, royalty-free license to make, use and sell the subject matter of said inventions, discoveries or Letters Patent to the extent that any utilization of said inventions, discoveries or Letters Patent for commercial purposes (as distinguished from Governmental purposes) is authorized by law.

7. Nothing contained in paragraphs 1. through 6. above shall in any way be deemed to change the patent rights of the parties existing and reserved under Supplemental Agreements 13 and 19 to this contract.

8. It is recognized that during the course of the work hereunder or subsequent thereto, the Contractor, its employees, or its subcontractors may from time to time desire to publish, within the limits of security requirements, information regarding technical or scientific developments arising in the course of the contract. In order that public disclosure of such information will not adversely affect the patent interest of the Commission, patent approval for release shall be secured from the Commission prior to any such publication.

9. In the event the Commission shall generally give standard patent provisions providing broader or more liberal patent rights to other contractors engaged in similar undertakings on a substantially comparable basis, it is understood and agreed that this contract shall be appropriately amended to afford the Contractor with comparable provisions.

ARTICLE XXXVIII - AUTHORIZATION AND LIMITATION OF GOVERNMENT OBLIGATIONS

This contract is authorized by, and has been negotiated and executed under authority of the Atomic Energy Act of 1954. All obligations of the Government under this contract shall, except to the extent funds have been obligated under this contract, be subject to the availability of funds appropriated from time to time by the Congress of the United States.

ARTICLE XXXIX - DESIGNATION OF CONTRACTUAL CHANGES

The parties agree that this and future supplemental agreements and future change orders to this contract shall be designated as serially numbered modifications commencing with this Modification No. 1 as well as by designation either as a change order or supplemental agreement to comply with current contract practices of the Commission.

ARTICLE XX - PRIOR RIGHTS AND OBLIGATIONS OF THE PARTIES, EFFECTIVE DATES OF CHANGES AND AMENDMENTS OF OTHER CONTRACTS

1. Except as may otherwise be expressly provided in this Modification No. 1, on and after the effective date of this Modification No. 1, all rights, duties, obligations and activities of the parties under this contract shall be governed by the provisions of this Modification No. 1.

2. Any rights that may have become vested in either party to this contract under the provisions of this contract as amended and existing prior to the effective date of this Modification No. 1 shall continue unchanged by reason of this Modification No. 1.

3. Any rights that may have become vested in either party to this contract under the provisions of Contract No. AT(04-3)-88 between the parties, as amended, and existing prior to January 1, 1958, shall continue unchanged by reason of incorporation into this agreement of the work under said contract, as provided in subsection 1. g. of Article II of this Modification No. 1.

4. Any rights that may have become vested in either party to this contract under the provisions of Contract No. AT(04-3)-49 between the parties, as amended, and existing prior to July 1, 1958, shall continue unchanged by reason of incorporation into this agreement of the work under said contract, as provided in subsection 1. h. of Article II of this Modification No. 1, except as provided in Article XXX of this Modification No. 1.

5. The Contractor shall not be required to amend its existing subcontracts or purchase orders to comply with the terms of this instrument where changes were made from previous contractual requirements, provided, however, that all subcontracts or purchase orders entered into subsequent to the date of execution of this Modification No. 1 shall contain such provisions and existing subcontracts or purchase orders shall be suitably revised at the first reasonable opportunity.

6. The rights, duties, obligations, and activities of the parties under the following articles of this Modification No. 1 shall be effective as of the following dates:

   a. Article VIII - Reimbursable Costs - October 1, 1956.

b. Article XXXIX - Government Property, Paragraph 2, December 31, 1947.

7. The parties recognize that the revisions and changes established and set forth in this Modification No. 1 may, in the interest of uniformity of contractor's operations, result in the necessity for corresponding amendments in contract AT(04-3)-49, and it is agreed as part of the consideration for this Modification No. 1 that such contract may be equitably revised to the extent mutually agreed by the parties.

ARTICLE XLI - DEFINITIONS - As used in this contract:

1. The term "Contracting Officer" means the person executing this contract on behalf of the Government and includes his successors or any duly authorized representative of any such person.

2. The term "Commission" means the United States Atomic Energy Commission or any duly authorized representative thereof, including the Contracting Officer except for the purpose of deciding an appeal under the general provision entitled "Disputes."

3. The term "Contractor" means North American Aviation, Inc., a Delaware corporation, or any duly authorized representative thereof.

ARTICLE XLII - CONTENT OF CONTRACT AND ALTERATIONS IN CONTRACT

1. This contract consists of this document of _____ pages.

2. Prior to the execution hereof, the following alterations were made and shall be deemed effective in the provisions of this contract.

(See next page for signatures)

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

THE UNITED STATES OF AMERICA

By _____
David Sams, Acting Manager
Chicago Operations Office
U. S. Atomic Energy Commission

NORTH AMERICAN AVIATION, INC.

By /s/ J. L. Atwood

President
(Title)

I, Alice H. Huntley, certify that I am the Assistant Secretary of the Corporation named as Contractor herein; that J. L. Atwood who signed this contract on behalf of said Corporation was then President of said Corporation; that said contract was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(SEAL)

/s/ Alice H. Huntley