



**AEROTEST OPERATIONS, INC.**  
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September 27, 2010

Document Control Desk  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville MD 20852

Tim McGinty, Director  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation  
Mail Stop O12E1  
11555 Rockville Pike  
Rockville MD 20852

RE: NRC-2010-0178; Docket No. 50-228; License No. R-98

**Report of Progress Made Toward Completion of the License Transfer**

By notice published in the Federal Register dated September 17, 2010, the U.S. Nuclear Regulatory Commission ordered that, good cause to extend the effectiveness of the Order of July 6, 2010 ( the "Order") being shown, the effectiveness of the Order would be extended until October 15, 2010, subject to certain conditions, among them, that a written report of progress made toward completion of the transfer would be provided on a weekly basis to the NRC Director, Division of Policy and Rulemaking. The following is the report of the Licensee as of the date indicated above.

As of September 10, 2010, Licensee and the U.S. Department of Energy (the "DOE") executed an amendment to the Contract for disposal of spent nuclear fuel. Such amendment, among other modifications of the contract language, established the fee for the disposal of the spent nuclear fuel generated by the Licensee.

During the period from September 3, 2010 to September 10, 2010, various discussions were held between the Licensee, X-Ray Industries, Inc. ("XRI") and the U.S. Department of Defense (the "DOD"). The subject of the discussions was the possible commitment of the DOD to provide for interim storage of the spent nuclear fuel generated at the facility upon cessation of operations and pending permanent disposal by the DOE. On September 10, 2010, the DOD indicated that the matter was being discussed internally and with other agencies of the U.S. government, and that any commitment that could be made by the DOD would be forthcoming as soon as agreement was reached.

On September 13, 2010, Autoliv ASP, Inc., and XRI executed a stock purchase agreement that would transfer all outstanding shares of stock of Licensee to XRI at the closing of the transaction. The stock purchase agreement provides for the closing of the transaction to take place on October 15, 2010. Closing of the transaction is contingent on the DOD lawfully committing to the Licensee, in such form and with such substance as is reasonably acceptable to XRI in its sole discretion, to take interim storage of all nuclear fuel and all spent fuel elements at the site upon cessation of operations at the site, pending permanent storage and disposal by the U.S. Department of Energy (or other appropriate agency) pursuant to U.S. Department of Energy Contract Amendment to DE-CR01-83NE44484. DOD has verbally committed to a legal pathway forward for resolving this outstanding issue.

Per DOD's request, on September 17, 2010, we sent DOD a copy of Aerotest's customer list, a letter to Aerotest's customers demonstrating Aerotest's intent to continue to operate its facility while DOD works to resolve the final outstanding issue, a signed copy of the final agreement with XRI, and a signed copy of the DOE contract amendment.

Also per DOD's request, on September 21, 2010, we sent DOD a copy of the fully executed DOE amendment, our previously filed NRC progress report, and a confidential list of Aerotest's customers, their points of contact, and their main product applications for which Aerotest provides services. DOD has informed us that they are reaching out to Aerotest's customers to understand the customers' full range of options for nuclear radiography services. We assume that once DOD has reached out to Aerotest's customers it will move forward with an agreement to provide for interim storage of the spent nuclear fuel generated at the Aerotest facility upon cessation of operations and pending permanent disposal by the DOE.

I, Michael S. Anderson, hereby certify that the content of this letter contains information that is true and correct to the best of my knowledge.

If you have any questions regarding this submittal, please contact Michael S. Anderson, Secretary of Aerotest at (248) 475-0442 or [mike.anderson@autoliv.com](mailto:mike.anderson@autoliv.com).

Sincerely,



Michael S. Anderson  
Secretary  
Aerotest Operations, Inc.

cc: Via Federal Express  
C. Montgomery  
Mail Stop O12G7  
Document Control Desk  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville MD 20852

U.S. Department of Energy  
Contract Amendment to  
DE-CR01-83NE44484



This is an Amendment to Contract No. DE-CR01-83NE44484 (hereinafter "the Contract") and is agreed to this 10 day of September, 2010 by the United States of America represented by the Department of Energy ("DOE) and Aerotest Operations, Inc. ("Purchaser"). This Amendment amends and supplements the above referenced Contract and except to the extent provided in this Amendment, the prior obligations of DOE and Purchaser remain in effect. Those Articles of the Contract not specifically modified by this Amendment remain unchanged.

Witnesseth that:

Whereas, on the 27<sup>th</sup> day of June, 1983 DOE and Purchaser entered into the Contract for disposal of spent nuclear fuel and/or high-level radioactive waste generated by the Purchaser's reactor; and

Whereas, this Amendment is mutually agreed to by the parties;

Whereas, nothing in this Amendment obligates DOE to take title to or store Purchaser's spent nuclear fuel/high level waste prior to disposal; and

Whereas, this amendment does not relieve Purchaser of its statutory, regulatory or contractual responsibilities with respect to its SNF/HLW; and

Whereas, as an NRC licensee, Purchaser is continuously responsible for its SNF/HLW until DOE's acceptance for disposal of Purchaser's SNF/HLW.

Now, therefore the parties hereto do agree as follows:

**ARTICLE VIII - FEES AND TERMS OF PAYMENT**

Article VIII.A. is amended by striking all that follows "A. Fees" and inserting in its place:

"The Purchaser shall be charged a fee of \$742,410 for the disposal of up to 120 TRIGA SNF elements. The charge for disposal of each additional TRIGA SNF element beyond the first 120 elements will be \$6,305."

*B. Payment*

Article VIII.B. is amended by striking existing paragraph 1 in its entirety and inserting:

“1. The Purchaser’s financial obligation shall be paid in the form of a single payment any time prior to the first delivery, as reflected in the DOE approved delivery commitment schedule, and shall consist of the fee plus interest on the outstanding fee balance. Interest is to be calculated from October 1, 2010 to the date of the payment based upon the 13-week Treasury bill rate, as reported on the first such issuance following April 7, 1983, and compounded quarterly thereafter by the 13-week Treasury bill rates as reported on the first such issuance of each succeeding assigned three-month period until payment.”

Article VIII.B. is further amended by striking existing paragraph 2 and renumbering existing paragraphs 3 and 4 as paragraphs 2 and 3, respectively. Renumbered subparagraph 2.(b) is amended by striking “as set forth in Appendix G,” and further amended by striking “Department of Energy, Office of Controller, Cash Management Division, Box 500, Room D-208, Germantown, Maryland 20874” and inserting in its place “DOE at an address to be provided by the Contracting Officer.”

ARTICLE XIV - ASSIGNMENT

Article XIV is amended by striking the existing Article and inserting:

“The rights, duties and any claims of the Purchaser arising under this contract may be assigned if all of the Purchaser’s rights, duties and claims are assigned, are assigned in their entirety, and are assigned with respect to all SNF and/or HLW covered under this contract. The Purchaser shall provide notice of any such assignment to DOE within ninety (90) days of the assignment. Notwithstanding the preceding sentences, nothing in this Article XIV shall prohibit an owner or co-owner of the nuclear power reactor covered by this contract from allocating rights, duties and claims with respect to the SNF and/or HLW covered by this contract among co-owners or to the extent that such allocation is in conjunction with the transfer by the owner or co-owner of a percentage interest in such reactor that relates to such SNF and/or HLW, provided that no such allocation shall create in the transferee any rights, duties and claims as between DOE and the transferee.”

ARTICLE XVI – DISPUTES

Article XVI.A. is amended by striking in the first sentence “any dispute concerning a question of fact arising under this contract which is”, and inserting “all disputes arising

under, or relating to, this contract including those related to delays by the Purchaser which are”.

Article XVI.A. is further amended by striking “DOE Board of Contract Appeals (Board)” and inserting “Office of Hearings and Appeals (OHA) or successor organization”, and striking “Board” and substituting “OHA or successor organization” in the next sentence.

Article XVI.B. is amended by striking “of more than \$50,000”.

Article XVI is further amended by striking section C and redesignating section D as C.

#### ARTICLE XXI - RIGHTS IN TECHNICAL DATA

Article XXI.B.2. is amended by striking the period at the end of subparagraph (c) and inserting:

“; or (d) This "proprietary data" may be disclosed to Federal, State or local regulatory bodies as may be necessary for regulatory certifications, permits or the like, and under the restriction that the "proprietary data" be retained in confidence and not be further disclosed.”

#### NEW ARTICLE XXII – QUALITY ASSURANCE

The Contract is further amended by redesignating existing “Article XXII” as “Article XXIII” and by inserting the following new Article XXII:

##### “ARTICLE XXII – QUALITY ASSURANCE

- A. To the extent applicable, the provisions of 10 CFR Part 21 apply to any procurement undertaken pursuant to the terms of the Contract.
  
- B. Provide all information on fuel descriptions, characteristics, and conditions, as specified in Appendix F, maintained under the Purchaser’s Commission-approved quality assurance program.

#### REDESIGNATED ARTICLE XXIII – ENTIRE CONTRACT

Redesignated Article XXIII. is further amended by striking “XXII” and inserting in its place “XXIII”.

*DB*

In Witness Whereof, the parties hereto have executed this Amendment as of the day and year first above written.

United States of America

United States Department of Energy

By: *[Signature]*  
(Contracting Officer)

Witnesses as to Execution on Behalf of Purchaser

(Name) ~~Dave Braegger, Treasurer, Aerotest Operations, Inc.~~

(Address) *D. B. Ryan*  
3455 Fostoria Way, San Ramone, CA 94583

(Name) *Heather M. Jare*  
Heather Lane, Vice President, Aerotest Operations, Inc.

(Address) 3455 Fostoria Way, San Ramone, CA 94583

(Purchaser's Company Name)

By: Dario G. Brisighella Jr. *[Signature]*  
Title: President, Aerotest Operations, Inc.

I, (Name), certify that I am the (Title) of the corporation named as Purchaser herein; that (Name) who signed this document on behalf of the Purchaser was then (Title) of said corporation; that said document 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 have hereunto affixed my hand and the seal of said corporation this 10 day of SEPTEMBER 2010

(Corporate Seal)

(Signature)  
*[Signature]*  
*Heather M. Jare*