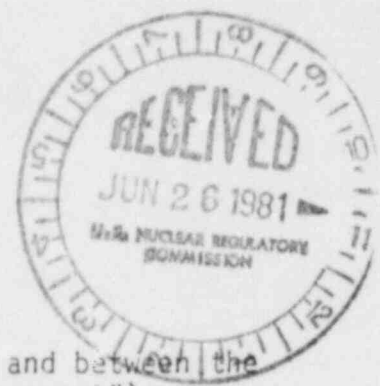


CONTRACT BETWEEN  
COLORADO STATE UNIVERSITY  
AND  
THE U. S. NUCLEAR REGULATORY COMMISSION



THIS AGREEMENT, effective the 1st day of June , 1981, by and between the UNITED STATES OF AMERICA (hereinafter referred to as the "Government"), as represented by the NUCLEAR REGULATORY COMMISSION (hereinafter referred to as the "Commission"), and COLORADO STATE UNIVERSITY existing under the laws of the State of Colorado with its principal office in Fort Collins, Colorado (hereinafter referred to as the "Contractor"),

WITNESSETH THAT:

WHEREAS, the Commission desires to have the Contractor perform certain research work, as hereinafter provided; and

WHEREAS, this agreement is authorized by law, including the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I - THE RESEARCH TO BE PERFORMED

- (a) The Contractor shall, to the best of its ability, furnish personnel, facilities, equipment, materials, supplies, and services, except such as are furnished by the Government, necessary for the performance of the research provided for in Appendix A hereto, and shall perform the research and report thereon pursuant to the provisions of this contract. It is understood that Appendix A, a guide to the performance of this contract, may be deviated from by the Contractor subject to the specific requirements of this contract.
- (b) This work shall be conducted under the direction of Robert N. Meroney and Kiran M. Kothari or such other member of the Contractor's staff as may be mutually satisfactory to the parties.

ARTICLE II - THE PERIOD OF PERFORMANCE

The period of performance under this contract shall commence on June 1, 1981 and expire on May 31 , 1986. Performance may be extended for additional periods by the mutual written agreement of the parties.

ARTICLE III - CONSIDERATION

- (a) In full consideration of the Contractor's performance hereunder, the Commission shall furnish the equipment, supplies, materials, and services, if any, listed in Article A-II(b) and pay the Contractor the sum of \$67,823.00, hereinafter called the "Support Ceiling" which sum shall be subject to adjustment as hereinafter provided.
- (b) Payments to the Contractor shall equal the "Cumulative Support Cost" of the performance of this contract, as the term "Cumulative Support Cost" is defined in Article B-XXVIII, provided, however, and notwithstanding any other provisions of this contract, that the Government's monetary liability under this contract shall not exceed the Support Ceiling specified in (a) above. The Commission shall not pay more than the Support Ceiling or an amount equal to the Cumulative Support Cost, whichever is less. The Contractor shall be obligated to perform under this contract throughout the agreed-upon period of performance, and to bear all costs which the Commission has not agreed to pay, provided, however, that the Contractor shall have the right to cease to perform the research provided for in this contract, upon written notice to the Commission to that effect, at any time when or after the Cumulative Support Cost equals or exceeds the Support Ceiling.
- (c) The Support Ceiling specified in (a) above 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 to this contract). In the event the stated period of contract performance is extended, the Support Ceiling will be revised to reflect any increased Commission support for the extended period or periods.
- (d) Upon termination, or expiration of the total period of performance, the Contractor shall promptly refund to the Commission (or make such disposition as the Commission may in writing direct) any sums paid by the Commission to the Contractor under this contract, in excess of the Cumulative Support Cost incurred in performance under this contract.

ARTICLE IV - GOVERNMENT PROPERTY

The following items of property procured or fabricated by the Contractor are hereby listed as "Government property":

NONE

ARTICLE V - APPENDICES

Appendix A, Appendix B - General Provisions and Appendix C - Statement of Costs, are hereby attached to and made a part of this contract.

ARTICLE VI - NONDISCRIMINATION

The Contractor agrees to comply with the Commission's Regulation (Part 4 of Title 10, Chapter 1, Code of Federal Regulations), as amended, effectuating the provisions of Title VI of the Civil Rights Act of 1964, and Title IV of the Energy Reorganization Act of 1974, as amended.

ARTICLE VII - CONFLICT OF INTEREST

The Contractor agrees to adopt policies and procedures, designed to avoid conflict-of-interest situations, which are in substantial conformance with the Joint Statement of the Council of American Association of University Professors and the American Council on Education of December 1964, entitled "On Preventing Conflicts of Interest in Government-Sponsored Research at Universities", which policies and procedures will be in connection with th's contract.

ARTICLE VIII - ALTERATIONS

- a. Article B-XXII, Priorities, Allocations, and Allotments, of Appendix B is deleted in its entirety.
- b. In accordance with FPR Temporary Regulation No. 39, Article B-XXVII, Listings of Employment Openings, of Appendix B is deleted in its entirety and inserted in lieu thereof is the attached Article B-XXVII, Disabled Veterans and Veterans of the Vietnam Era.
- c. Article B-XXXII, Employment of the Handicapped, of Appendix B is deleted in its entirety and inserted in lieu thereof is the attached Article B-XXXII, Employment of the Handicapped.
- d. The attached Article B-XXXIII, Preference for U. S. Flag Air Carriers, is added to Appendix B.
- e. The attached Article B-XXXIV, Clean Air and Water, is added to Appendix B.

IN WITNESS WHEREOF, the parties have executed this document.

UNITED STATES OF AMERICA

BY: 

Kellogg V. Morton, Chief  
Research Contracts Branch  
(title).

Nuclear Regulatory Commission

COLORADO STATE UNIVERSITY

BY: 

James F. Brown  
Assistant V.P. for Research  
(title)


I, Jeane M. Cole, certify that I am the  
(attester)  
Assistant Secretary of the Contractor named  
(title)

under this document; that James F. Brown  
(signatory)

who signed this document on behalf of said Contractor was then  
Assistant Vice President for Research of said Contractor; that  
(title)

this document 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.

  
\_\_\_\_\_  
Jeane M. Cole, Asst. Secretary  
STATE BOARD OF AGRICULTURE

(SEAL)



CONTRACTOR: COLORADO STATE UNIVERSITY

## APPENDIX A

For the Contract period June 1, 1981 through May 31, 1986

Article A-I RESEARCH TO BE PERFORMED BY CONTRACTOR

(a) The unclassified scope of work under this contract entitled, "The Estimation of Atmospheric Dispersion at Nuclear Reactor Plants Utilizing Real Time Anemometer Statistics" is as follows:

- I. Verify the Baldwin-Johnson (1972) statistical routine in a controlled shear layer situation similar to an atmospheric transport configuration. Experiments will be conducted to:
  - A. Measure the five or six relevant turbulence quantities in a simulated atmospheric boundary layer. These include time mean velocity at release height, velocity shear over a given height, the integral time scale of axial turbulent velocity, the rms of this signal, the integral time scale of the space-time correlation, and any particle fall velocity
  - B. Release and measure dispersion from continuous point and line source plumes under similar flow configurations.
  - C. Examine reliability of prediction procedure based on plume and flow statistics gathered during parts A and B.
- II. Determine quantitatively the character of unstable internal boundary layers developed during flow over warm surfaces. Relate the physics of the behavior to the occurrence of fumigation near city, coastal, or lake boundaries. Measure concentration fields under this configuration and compare to Baldwin-Johnson prediction results.
  - A. Measure mean velocity and turbulence behavior downwind of a change in surface temperature for neutrally and stably stratified approach flow fields.
  - B. Measure concentration distributions during simulated fumigation episodes under similar conditions.
  - C. Examine reliability of prediction procedure based on plume and flow characteristics gathered during parts 1 and 2.
- III. Apply the results of I and II to dispersion of pollutants in complex terrain. A variety of flow conditions must be taken into account in complex terrain to ensure that the appropriate physical mechanisms governing dispersion are incorporated. A partial list follows:

1. Stability - Stably stratified flow over complex terrain can substantially alter turbulence structure and mean flow patterns. Decoupling between surface and higher level winds can occur, capping inversions can prevent upward dispersion trapping pollutants near the ground, and in some cases completely stagnant air masses can be trapped in a valley. Down-valley winds created by cold-air subsidence can have a flow direction governed by local terrain and essentially independent of wind direction at higher levels. Unstably stratified conditions can cause up-valley winds which can transport pollutants near the surface in directions not corresponding to upper level winds or can create added turbulence aiding the dispersion process.
2. Flow Separation - Flow separation from ridges or hills results in increased turbulence on the downwind side and often results in reverse flows near the surface. Pollutants released in a separated flow region can spread throughout the separated region with relatively high concentration. The wind characteristics immediately surrounding a pollution source are governed by the detailed geometry of the terrain feature generating the separated flow and by the direction and stability of the flow approaching that terrain.
3. Impingement - Terrain features such as hills or ridges downwind of a pollution source may generate flows which bring upper level winds carrying pollutants down to the surface increasing concentrations or deflect winds carrying pollutants away from the surface effectively decreasing surface concentrations. Similar effects for surface-based concentration plumes could be expected to increase or decrease surface concentrations depending on the particular characteristics of the flow over the terrain feature.
4. Roughness Effect - If the complex terrain is viewed as an increased roughness height, then the neutrally stable flow over the terrain will be characterized by a deeper boundary layer, increased turbulence and decreased mean velocity. These characteristics may increase dispersion in the regions away from the pollutant source once the pollutant is entrained into the mean flow over the terrain. Local effects discussed above may lead to either increased or decreased concentrations in the immediate area around the source.

- IV. Utilize measurements from Sections I, II, and III to critique the Baldwin-Johnson statistical prediction procedure. Make recommendations based on this comparison as to the accuracy and reliability of such a methodology for real time hazard predictions at nuclear reactor facilities.
- V. Extend method to particles with fall velocity perpendicular to mean flow direction.
- VI. Prepare topical reports upon completion of each of the above tasks.
- VII. Prepare a final report which will include the results of the aforementioned measurements and analyses and outline areas which need possible further investigations. A detailed outline of the final report will be determined in consultation between the principal investigators and the cognizant NRC technical monitor.

(b) The Principal Investigator expects to devote the following approximate amount(s) of time to the contract work:

- R. N. Merony: 100% of his time for 2 months of each year
- K. M. Kothari: 100% of his time for 3.5 months of each year

ARTICLE A-II WAYS AND MEANS OF PERFORMANCE

(a) Items for which support will be provided as indicated in A-III, below

- |   |                      |
|---|----------------------|
| (1) Salaries and Wages  | \$ <u>165,414.00</u> |
| (2) Equipment to be purchased or fabricated by the Contractor   | \$ <u>-0-</u>        |
| (3) Travel  |                      |
| (i) Domestic  | \$ <u>6,300.00</u>   |
| (ii) Foreign  | \$ <u>-0-</u>        |
| (4) Other direct costs including fringe benefits  |                      |
| (5) Indirect costs based on a predetermined rate of 37.7 percent applicable to Direct Costs less tuition and equipment. |                      |

(b) Items, if any, significant to the performance of this contract, but excluded from computation of Support Cost and from consideration in proportioning costs:

NONE

(c) Time or effort of Principal Investigator(s) including indirect costs and fringe benefits contributed by Contractor but excluded from computation of Support Cost and from consideration in proportioning costs:

NONE

### Article A-III

The total estimated cost of items under A-II(a) above for the contract period stated in this Appendix A is \$432,698.00; the Commission will pay 100 percent of the actual costs of these items incurred during the contract period stated in this Appendix A, subject to the provisions of Article III and Article B-XXVIII. The estimated NRC Support Cost for the contract period stated in this Appendix A is \$432,698.00.

The estimated NRC Support Cost is funded as follows:

(a) Estimated unexpended balance from prior period(s)	\$ <u>0-</u>
(b) New funds for the current period	\$ <u>67,823.00</u>
(c) New funds to be provided in FY 82, subject to their availability	\$ <u>76,749.00</u>
(d) New funds to be provided in FY 83, subject to their availability	\$ <u>84,959.00</u>
(e) New funds to be provided in FY 84, subject to their availability	\$ <u>96,631.00</u>
(f) New funds to be provided in FY 85, subject to their availability	\$ <u>106,536.00</u>
(g) The new funds being added in A-III(b) constitute the basis for advance payments provided under Article B-X.	

APPENDIX A - GENERAL PROVISIONS

Cost-Type Contracts For Research And  
 Development With Educational Institutions

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APPENDIX A

U.S. NUCLEAR REGULATORY COMMISSION

GENERAL PROVISIONS FOR COST-TYPE CONTRACTS

Research and Development

Contracts with Nonprofit and Educational Institutions

1. DEFINITIONS (1-7.102-1 and 9-7.5005-4)

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "head of the agency" or "Secretary" as used herein means the Secretary, the Under Secretary, any Assistant Secretary, or any other head or assistant head of the executive or military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the secretary.

(b) The term "Commission" means the United States Nuclear Regulatory 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 "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(d) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

(e) Additional definitions may be included as are appropriate.

2. CHANGES (1-7.404-5)

(a) The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following:

- (i) Drawings, designs, or specifications;
- (ii) Method of shipment or packing; and
- (iii) Place of inspection, delivery, or acceptance.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise effects any other provisions of this contract, an equitable adjustment shall be made:

- (i) In the estimated cost or delivery schedule, or both;
- (ii) In the amount of any fixed fee to be paid to the Contractor;

and

(iii) In such other provisions of the contract as may be affected, and the contract shall be modified in writing accordingly.

Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; Provided, however, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, except as provided in paragraph (c) below, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(c) Notwithstanding the provisions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof, shall not be increased or deemed to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until such modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the clause of this contract entitled "Limitation of Cost" or "Limitation of Funds."

### 3. LIMITATION OF FUNDS (1-7.202-3(b) and 1-7.402-2(c))

(Applicable to Contracts which are incrementally funded)

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost.

(b) The amount presently available for payment and allotted to this contract, the items covered thereby, the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is contemplated that from time to time additional funds will be allotted to this contract up to the full estimated cost set forth in the Schedule, exclusive of

any fee. The Contractor agrees to perform or have performed work on this contract up to the point at which the total amount paid and payable by the Government pursuant to the terms of this contract approximates but does not exceed the total amount actually allotted to the contract.

(c) If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount then allotted to the contract, the Contractor shall notify the Contracting Officer in writing to that effect. The notice shall state the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. Sixty days prior to the end of the period specified in the Schedule the Contractor will advise the Contracting Officer in writing as to the estimated amount of additional funds, if any, that will be required for the timely performance of the work under the contract or for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Schedule or an agreed date substituted therefor, the Contracting Officer will, upon written request by the Contractor, terminate this contract pursuant to the provisions of the Termination clause on such date. If the Contractor, in the exercise of his reasonable judgment, estimates that the funds available will allow him to continue to discharge his obligations hereunder for a period extending beyond such date, he shall specify the later date in his request and the Contracting Officer, in his discretion, may terminate this contract on that later date.

(d) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the total amount from time to time allotted to the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the amount allotted to the contract, unless and until the Contracting Officer has notified the Contractor in writing that such allotted amount has been increased and has specified in such notice an increased amount constituting the total amount then allotted to the contract. To the extent the amount allotted exceeds the estimated cost set forth in the Schedule, such estimated cost shall be correspondingly increased. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the amount allotted to this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the total amount then allotted to the contract, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the amount allotted to the contract has been increased, any costs incurred by the Contractor in excess of the amount previously allotted shall be allowable to the same extent as if such costs had been incurred after such increase in the amount allotted; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the amount allotted in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the amount allotted.

(f) Nothing in this clause shall affect the right of the Government to terminate this contract. In the event this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(g) In the event that sufficient funds are not allotted to this contract to allow completion of the work contemplated by this contract, the Contractor shall be entitled to that percentage of the fee set forth in the Schedule equivalent to the percentage of completion of the work contemplated by this contract.

4. LIMITATION OF COST (1-7.202-3(a) and 1-7.402-2(a))

(Applicable to Contracts which are fully funded only)

(a) It is estimated that the total cost to the Government for the performance of this contract, exclusive of any fee, will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated costs. If, at any time, the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost then set forth in the Schedule, or if, at any time, the Contractor has reason to believe that the total cost to the Government for the performance of this contract, exclusive of any fee, will be greater or substantially less than the then estimated cost hereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the estimated cost of this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the estimated cost set forth in the



Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of the estimated cost prior to such increase shall be allowable to the same extent as if such costs had been incurred after the increase; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expense.

(c) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost.

(d) In the event that this contract is terminated or the estimated cost not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

#### 5. ALLOWABLE COST AND PAYMENT (1-7.402-3(b))

(a) For the performance of this contract, the Government shall pay to the Contractor:

(1) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(i) Subpart 1.15.3 of the Federal Procurement Regulations (41 CFR 1-15.3), as in effect on the date of this contract; and

(ii) The terms of this contract; and

(2) Such fixed-fee, if any, as may be provided for in the Schedule.

(b) Payments shall be made to the Contractor when requested as work progresses, but not more frequently than bi-weekly, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost for the performance of this contract and claimed to constitute allowable cost. For this purpose, except as provided herein with respect to pension contributions, the term "costs" shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct

travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, as is shown by records maintained by the Contractor for purposes of obtaining reimbursements under Government contracts plus the amount of progress payments which have been paid to the Contractor's sub-contractors under similar cost standards. In addition, when pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs therefor for payment purposes until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals therefor may be included in indirect costs for payment purposes provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from indirect cost for payment purposes until payment has been made. The restriction on payment more frequently than bi-weekly and the requirement of prior payment for items or services purchased directly for the contract shall not apply when the Contractor is a small business concern.

(c) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall, except as otherwise provided in this contract subject to the provisions of (d) below, make payment thereon as approved by the Contracting Officer.

After payment of an amount equal to 80 percent of the total estimated cost of performance of this contract set forth in the Schedule, the Contracting Officer may withhold further payment on account of allowable cost until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed 1 percent of (the Government's share of) such total estimated cost or \$100,000, whichever is less.

(d) At any time or times prior to final payment under this contract the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore 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.

(e) 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 the provisions of (f), below), the Government shall promptly pay to the Contractor any balance of allowable cost, which has been withheld pursuant to (c), above, or otherwise not 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 1 year (or such longer periods as the Contracting Officer may in his discretion approved in writing) from the date of such completion.



(f) 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. 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:

(1) 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

(2) 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 the performance of this contract: provided, however, 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 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

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its 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.

(g) Any costs incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in the contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

6. STANDARDS OF WORK (1-7.402-4)

The Contractor agrees that the performance of work and services pursuant to the requirements of this contract shall conform to high professional standards.

7. INSPECTION (1-7.402-5(c))

The Government, through any authorized representatives, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

8. ASSIGNMENT (9-7.5006-46)

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

9. EXAMINATION OF RECORDS BY COMPTROLLER GENERAL (1-7.103-3 and 9-7.5004-10)

(a) This clause is applicable if the amount of this contract exceeds \$10,000 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract unless the Commission authorizes the prior disposition, 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.

(c) The contractor further agrees to include in all his 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 3 years after final payment under the subcontract unless the Commission authorizes their prior disposition, 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. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c), above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of

the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

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

#### 10. SUBCONTRACTS (1-7.402-8)

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract which (1) is cost-reimbursement type, time and materials, or labor-hour, or (2) is fixed-price type and exceeds in dollar amount either \$25,000 or 5 percent of the total estimated cost of this contract, or (3) provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment having a value in excess of \$1,000 or of any items of industrial facilities, or (4) has experimental, developmental or research work as one of its purposes.

(b) In the case of a proposed subcontract which is (1) cost-reimbursement type, time and materials, or labor-hour which would involve an estimated amount in excess of \$10,000, including any fee, (2) is proposed to exceed \$100,000, or (3) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which, in the aggregate are expected to exceed \$100,000, the advance notification required by (a), above, shall include:

(1) A description of the supplies or services to be called for by the subcontract;

(2) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;

(3) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(4) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data when such data and certificate are required by other provisions of this contract to be obtained from the subcontractor;

(5) Identification of the type of subcontract to be used;

(6) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of \$100,000, a statement of the

basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference;

(7) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee/profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time; and

(8) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract to be obtained from the subcontractor.

(c) The Contractor shall obtain the written consent of the Contracting Officer prior to placing any subcontract for which advance notification is required under (a) above. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(d) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(f) The Contractor shall give the Contracting Officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which in the opinion of the Contractor, may result in litigation, related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(g) Notwithstanding (c) above, the Contractor may enter into subcontracts within (i) or (ii) of (a) above, without the consent of the Contracting Officer, if the Contracting Officer has approved in writing the Contractor's procurement system and the subcontract is within the scope of such approval. (This subparagraph (g) however, shall not be applicable to those subcontracts subject to paragraph (j) below, if any.)

(h) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments on the fixed-price types of subcontracts of those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in the Federal Procurement Regulations, Subpart 1-30.5, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(i) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum extent consistent with the objectives and requirements of this Contract.

#### 11. UTILIZATION OF SMALL BUSINESS CONCERNS (1-1.710-3(a))

(Applicable to contracts exceeding \$10,000)

(a) 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.

(b) 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.

#### 12. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (1-8.704-1)

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the Government whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government. Termination of work hereunder shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

(b) After receipt of the Notice of Termination the Contractor shall cancel his outstanding commitments hereunder covering the procurement of materials, supplies, equipment, and miscellaneous items. In addition, the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of his outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. With respect to such canceled commitments the Contractor agrees to (1) settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with the approval or ratification of the Contracting Officer, to the extent



he may be require, which approval or ratification shall be final for all purposes of this clause, and (2) assign to the Government, in the manner, at the time, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and 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.

(c) The Contractor shall submit his termination claim to the Contracting Officer promptly after receipt of a Notice of Termination, but in no event later than one year from the effective date thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such one-year period or authorized extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Any determination of costs under paragraph (c) shall be governed by the contract cost principles and procedures in Subpart 1-15.3 of the Federal Procurement Regulations (41 CFR 1-15.3) in effect on the date of this contract, except that if the Contractor is not an educational institution any costs claimed, agreed to, or determined pursuant to paragraphs (c) or (e) hereof shall be in accordance with Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2) in effect on the date of this contract.

(e) Subject to the provisions of paragraph (c) above, and subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which he is unable to cancel: *Provided, however,* That in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to his other activities and operations. Any such agreement shall be embodied in an amendment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract, whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand: *Provided* That if such excess is not so paid upon demand, interest thereon shall be payable by the Contractor to the Government at the rate of 6 percent per annum, beginning 30 days from the date of such demand.



(g) The Contractor agrees to transfer title to the Government and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, such information and items which if the contract had been completed, would have been required to be furnished to the Government, including:

(1) Completed or partially completed plans, drawings, and information; and

(2) Materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice.

Other than the above, any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such 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 work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition of property arising from the termination, the Contractor agrees to 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.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "Disputes" clause of this contract.

### 13. DISPUTES (1-7.102-12)

(a) 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 representative 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.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: 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.

14. BUY AMERICAN ACT (1-6.104-5) (9-7.5004-16)

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

(i) "Components" means those articles, materials, and supplies which are directly incorporated in the end products;

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

(iii) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) 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 percent of the cost of all its components. For the purposes of this (a) (iii) (B), components of foreign origin of the same type or kind as the products referred to in (b) (ii) or (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that there will be used under this contract (by the Contractor, subcontractor, materialmen and suppliers) only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Commission determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Commission determines the domestic preference to be inconsistent with the public interest; or

(iv) As to which the Commission determines the cost to the Government to be unreasonable.

15. CONVICT LABOR (1-12.204)

In connection with the performance of work under this contract the Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c) (2)) and Executive Order 11755, December 29, 1973.

16. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (1-12.303)

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), 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 Requirement. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, apprentice, trainees, watchmen, and guards shall require or permit any laborer, mechanic, apprentice, trainee, watchman, or guard in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer, mechanic, apprentice, trainee, watchman, or guard 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 8 hours in any calendar day or in excess of 40 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, mechanic, apprentice, trainee, watchman, or guard 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 8 hours or in excess of his standard workweek of 40 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 clause 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 3 years from the completion of the contract.

17. EQUAL OPPORTUNITY (1-12.803-2).

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).

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, color, religion, sex, 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, color, religion, sex, 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 Equal Opportunity clause.

(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, color, religion, sex 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 labor union or workers' representative of the contractor's commitments under this Equal Opportunity clause, 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. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the contractor's noncompliance with the Equal Opportunity clause 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. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or in any rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The contractor will include the provisions of paragraphs (a) through (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204



of Executive Order No. 11246 of September 24, 1965, 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 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.

18. OFFICIALS NOT TO BENEFIT (1-7.202-17)

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.

19. COVENANT AGAINST CONTINGENT FEES (1-1.503) (9-7.5004-2)

(a) 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.

(b) 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.

20. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (1-7.103-4) (Applicable to Contracts exceeding \$10,000)

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

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

21. PATENTS (1-9.107-5(a))

(a) Definitions.

(1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvements thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Nuclear Regulatory Commission where a purpose of the contract is the conduct of experimental, development, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America and for the purpose of this contract the U.S. Nuclear Regulatory Commission (NRC).

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) Allocation of principal rights.

(1) Assignment to the NRC. The Contractor agrees to assign to the Commission the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (b)(2) and (d) of this clause.

(2) Greater rights determinations. The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for determination whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (c) (2) (1) of this clause, or not later than 3 months thereafter, or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the Commission.



(c) Minimum rights acquired by the Commission. With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby, grants to the Commission a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments;

(2) Agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances:

(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Commission that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application, or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(ii) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health, safety or welfare needs, or for other public purposes stipulated in this contract;

(3) Shall submit written reports at reasonable intervals upon request of the Commission during the term of the patent on the Subject Invention regarding:

(i) The Commercial use that is being made or is intended to be made of the invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing;

(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Commission and to provide for that refund in any instrument transferring rights to any party in the invention; and

(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c) (1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information to the Commission as required by paragraph (c)(3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention. Nothing contained in this paragraph (c) shall be deemed to grant to the Commission any rights with respect to any invention other than a Subject Invention.

(d) Minimum rights to the Contractor.

(1) The Contractor reserves a revocable, nonexclusive, royalty-free license in each patent application filed in any Country on a Subject Invention and any resulting patent in which the Commission acquires title. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of the Commission except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive domestic license retained pursuant to paragraph (d)(1) of this clause may be revoked or modified by the Commission to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101-4.103-3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101-4.104-3. This license shall not be revoked in that field of use and/or the geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d)(1) of this clause may be revoked or modified at the discretion of the Commission to the extent that the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before the modification or revocation of the license, pursuant to paragraph (d)(2) of this clause, the Commission shall furnish the Contractor a written notice of its intention to modify or revoke the license and the Contractor shall be allowed 30 days (or such longer period as may be authorized by the Commission for good cause shown in writing by the Contractor) after the notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the Commission any decision concerning the modification or revocation of his license.

(e) Invention, identification, disclosures, and reports.

(1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and any other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of Subject Inventions, and records which show that the procedures for identifying and disclosing the Inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(1) A complete technical disclosure for each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention

known to the Contractor. The disclosure shall identify the contract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports at least every 12 months from the date of the contract listing the Subject Inventions for that period and certifying that;

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period; and

(B) All Subject Inventions have been disclosed or that there are no such inventions; and

(iii) A final report within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except nontechnical personnel, such as clerical employees and manual laborers.

(4) The Contractor agrees that the Commission may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(5) In order to protect the patent interest of the Government or the Contractor, the Contractor shall obtain the written approval of the Contracting Officer prior to the release or publication of the information in any Subject Invention disclosure by the Contractor or other parties acting on his behalf.

(f) Forfeiture of rights in unreported Subject Inventions.

(1) The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to disclose to the Contracting Officer within 6 months after the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e)(2)(iii) of this clause, which ever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1)(i) or (1)(ii) of this paragraph (f), the Contractor:

(i) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or

(ii) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(iii) Establishes that the failure to disclose did not result from his fault or negligence.

(3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the Disputes Clause), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Commission. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Commission may have with respect to Subject Inventions.

(g) Examination of records relating to inventions.

(1) The Contracting Officer or his authorized representative until the expiration of 3 years after final payment under this contract shall have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause.

(2) The Contracting Officer shall have the right to review all books (including laboratory notebooks), records and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e)(1) of this clause; or

(ii) Maintain and follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) Withholding of payment (Not applicable to Subcontracts).

(1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish, maintain, and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or

(iii) Deliver acceptable interim reports pursuant to paragraph (e)(2)(ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

The reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause, and an acceptable final report pursuant to (e)(2)(iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization the maximum amount that may be withheld under this paragraph shall not exceed \$50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) Subcontracts

(1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Commission Contracting Officer, the Contractor shall include this Patent Rights clause modified to identify the parties in any subcontract hereunder if a purpose of the subcontract is the conduct of experimental, developmental, or research work. In the event of refusal by a Subcontractor to accept this clause, or if in the opinion of the Contractor this clause is inconsistent with the policy set forth in 41 CFR 1-9.107-3, the Contractor:



(i) Shall promptly submit a written notice to the Commission Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Commission Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of his contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to the Commission Contracting Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Commission Contracting Officer, be furnished to the contractor for transmission to the Commission Contracting Officer.

(5) The Contractor shall promptly notify the Commission Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract and the dates of award and estimated completion. Upon request of the Commission Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing Patent Rights Clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(6) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Commission Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Commission is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Commission all rights that he would have to enforce the Subcontractor's obligations for the benefit of the Commission with respect to Subject inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Commission in regard to Subject Inventions.

(j) Reserved

(k) Reserved

(l) No claim for pecuniary award or compensation under the provisions of the Atomic Energy Act of 1954 as amended 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.

(m) With respect to any U.S. Patent Application filed by the Contractor on any contract invention or discovery made or conceived in the course of the contract, the Contractor will incorporate in the first paragraph of the U.S. Patent Application the following statement:

"The invention described herein was made in the course of, or under a contract (if desired may substitute contract with identifying number) with the U.S. Nuclear Regulatory Commission."

## 22. GOVERNMENT PROPERTY (1-7.402-25(b))

(Cost Reimbursement, Nonprofit)

(a) The Commission shall deliver to the Contractor for use in connection with and under the terms of this contract, the property described as Government-furnished property in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule of this contract or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer, shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor and shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provisions affected by any such delay. In the event that the Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provision, repair or modification. The foregoing provisions for adjustment are exclusive and the Commission shall not be liable for suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) (1) By notice in writing, the Contracting Officer may (i) decrease the property furnished or to be furnished by the Commission under this contract, or (ii) substitute other Government-owned property for property to be furnished by the Commission, or to be acquired by the Contractor for the Commission, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal, shipping, and disposal of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to subparagraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Commission had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor, (or if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(c) (1) Title to all property furnished by the Commission shall remain in the Commission.

(2) Notwithstanding subparagraph (1) above, title to equipment purchased with funds available for research having an acquisition cost of less than \$1,000 shall vest in the Contractor upon acquisition or as soon thereafter as feasible provided that the Contractor shall have obtained approval of the Contracting Officer prior to acquisition of such property.

(3) Title to equipment having an acquisition cost of \$1,000 or more, purchased with funds available for the conduct of research, shall vest as set forth in the contract.

(4) If title to equipment is vested pursuant to (2) or (3) above, the Contractor agrees that no charge will be made to the Commission for any depreciation, amortization, or use charge with respect to such equipment under any existing or future Government contract or subcontract thereunder.

(5) The Contractor shall furnish the Contracting Officer a list of all equipment acquired under subparagraph (2) above within ten (10) days following the end of the calendar quarter during which such equipment was received.

(6) All Commission furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this clause, is hereinafter collectively referred to as "Government property."

(7) Title to Government property shall not be affected by the incorporation or attachment thereof 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 personality by reason of affixation to any realty.

(8) Title to all property purchased by the Contractor, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this contract and which under the provisions of this contract is to vest in the Government, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is to be reimbursed to the Contractor under this contract and which under the provisions of this contract is to vest in the Government, 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 Commission, whichever first occurs.

(d) The Contractor shall be directly responsible for and accountable for all Government property under this contract. The Contractor shall, establish and maintain a system to control, protect, preserve, and maintain all Government property. This system shall, upon request by the Contracting Officer be submitted for review and, if satisfactory, approved in writing by the Contracting Officer. The Contractor shall maintain and make available such records as are required by the approved system and must account for all Government property until relieved of responsibility therefor in accordance with the written instructions of the Contracting Officer. To the extent directed by the Contracting Officer, the Contractor shall identify Government property by marking tagging, or segregating in such manner as to clearly indicate its ownership by the Government.

(e) The Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the utilization, maintenance, repair, protection, and preservation of Government property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of Government property.

(g) (1) The Contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed;

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for utilization, maintenance, repair, protection and preservation of Government property as required by (f) above, or to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under (f) above, or (B) to establish, maintain and administer, in accordance with (d) above, a system for control of Government property;

(iii) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the schedule;



(iv) Which results from a risk expressly required to be insured under some other provisions of this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement.

Any failure of the Contractor to act as provided in subparagraph (ii) above, shall be conclusively presumed to be a failure resulting from willful misconduct, or lack of good faith on the part of such directors, officers, or other representatives mentioned in subparagraph (i) above, if the Contractor is notified by the Contracting Officer by registered or certified mail, addressed to one of such directors, officers, or other representatives, of the Government's disapproval, withdrawal of approval, or nonacceptance of the Contractor's program or system. In such event, it shall be presumed that any loss of or damage to Government property resulted from such failure. The Contractor shall be liable for such loss or damage unless he can establish by clear and convincing evidence that such loss or damage did not result from his failure to maintain an approved program or system or occurred during such time as an approved program or system for control of Government property was maintained.

If more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government property except to the extent that the Commission may have required the Contractor to carry such insurance under any other provision of this contract.

(3) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the loss and salvage organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the loss and salvage organization so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property. The Contractor shall make repairs and renovations of the damaged Government property or take such other action as the Contracting Officer directs.



(4) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, he shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Commission's right to recover against third parties for any such loss, destruction, or damage, and upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Commission all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Commission) in obtaining recovery.

(h) The Commission, and any persons designated by it, shall at all reasonable times have access to the premises wherein any of the Government property is located, for the purpose of inspecting the Government property.

(i) Upon completion or expiration of this contract, or at such earlier dates as may be fixed by the Contracting Officer, any Government property which has not been consumed in the performance of this contract, or which has not been disposed of as provided for elsewhere in this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of in the same manner, and subject to the same procedures, as is provided in paragraph (g) of the clause of this contract entitled "Termination for the Convenience of the Government" with respect to termination inventory.

The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Commission to the Contractor under this contract, or shall otherwise be credited to the cost of the work covered by this contract, or shall be paid in such other manner as the Contracting Officer may direct. Pending final disposition of such property, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation thereof.

(j) If the Contractor determines any Government property to be in excess of his needs under this contract, such Government property shall be disposed of in the same manner as provided by paragraph (i) above, except that the Commission may abandon any Government property in place and thereupon all obligations of the Commission regarding such abandoned property shall cease. Unless otherwise provided herein, the Commission has no obligation to the Contractor with regard to restoration or rehabilitation of the Contractor's premises, neither in case of abandonment, disposition pursuant to paragraph (i) above, nor otherwise, except for restoration or rehabilitation costs caused by removal of Government property pursuant to paragraph (b) above.

(k) All communications issued pursuant to this clause shall be in writing.

#### 23. UTILIZATION OF CONCERNS IN LABOR SURPLUS AREAS (1-1.805-3(a))

(The following clause is applicable if this contract exceeds \$10,000.)

(a) It is the policy of the Government to award contracts to labor surplus area concerns that (1) have been certified by the Secretary of Labor (hereafter referred to as certified-eligible concerns with first or second

preferences) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States, respectively, or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the contractor in placing his subcontracts shall observe the following order of preference: (1) certified eligible concerns with a first preference which are also small business concerns; (2) other certified-eligible concerns with a first preference; (3) certified-eligible concerns with a second preference which are also small business concerns; (4) other certified-eligible concerns with a second preference; (5) persistent or substantial labor surplus area concerns which are also small business concerns; (6) other persistent or substantial labor surplus area concerns; and (7) small business concerns which are not labor surplus area concerns.

#### 24. PAYMENT FOR OVERTIME PREMIUMS (1-7.202-29)

(a) Allowable cost shall not include any amount on account of overtime premiums except when (1) specified in (d), below, or (2) paid for work:

(i) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature:

(ii) By indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting:

(iii) In the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat, which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(iv) Which will result in lower cost to the Government.

(b) The cost of overtime premiums otherwise allowable under (a), above, shall be allowed only to the extent the amount thereof is reasonable and properly allocable to the work under the contract.

(c) Any request for overtime, in addition to any amount specified in (d), below, will be for all overtime which can be estimated with reasonable certainty shall be used for the remainder of the contract, and shall contain the following:

(1) Identification of the work unit, such as the department or section in which the requested overtime will be used, together with present workload, manning and other data of the affected unit, sufficient to permit an evaluation by the Contracting Officer of the necessity for the overtime.

(2) The effect that denial of the request will have on the delivery or performance schedule of the contract:

(3) Reasons why the required work cannot be performed on the basis of utilizing multishift operations or by the employment of additional personnel; and

(4) The extent to which approval of overtime would affect the performance or payments in connection with any other Government contracts, together with any identification of such affected contracts.

(c) The Contractor is authorized to perform overtime, in addition to that performed under (a)(2), only to the extent, if any, specified elsewhere in this contract.

#### 25. COMPETITION IN SUBCONTRACTING (1-7.202-30)

The Contractor shall select subcontractor (including suppliers) on a competitive basis to the maximum practicable extent consistent with the objectives and requirements of the contract.

#### 26. AUDIT (1-3.814-2(a))

(a) General. The Contracting Officer or his representatives shall have the audit and inspection rights described in the applicable paragraphs (b), (c) and (d) below.

(b) Examination of costs. If this is a negotiated fixed-price type, cost-reimbursement type, incentive, time and materials, labor hour, or price redeterminable contract, or any combination thereof, the Contractor shall maintain, and the Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. Such right of examination shall include inspection at all reasonable times of the Contractor's plants, or such parts thereof, as may be engaged in the performance of this contract.

(c) Cost or pricing data. If the Contractor submitted cost or pricing data in connection with the pricing of this contract or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are employees of the United States Government shall have the right to examine all books, records, documents and other data of the Contractor related to the negotiation, pricing or performance of such contract, change or modification, for the purpose of

evaluating the accuracy, completeness and currency of the cost or pricing data submitted. Additionally, in the case of pricing any change or modification exceeding \$100,000 to formally advertised contracts, the Comptroller General of the United States or his representatives who are employees of the United States Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(d) Availability. The materials described in (b) and (c) above, shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit or reproduction, until the expiration of 3 years from the date of final payment under this contract or such lesser time specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) and for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (1) and (2) below:

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of 3 years from the date of any resulting final settlement.

(2) Records which relate to appeals under the "Disputes" clause of this contract, or litigation or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of.

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the Contracting Officer under the Government prime contract.

(f) 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.

#### 27. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (1-3.814-1(a))

If any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because:

(a) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(b) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data: or "Subcontractor Cost or Pricing Data--Price Adjustments" or any subcontract clause therein required furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;



(c) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(d) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (a), (b) or (c) above, which was not accurate as submitted; the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor: Provided, the actual subcontract price was not affected by defective cost or pricing data.

(Note: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify by the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

28. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - PRICE ADJUSTMENTS  
(1-3.814-1(b))

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of \$100,000 unless the modification is priced on the basis of adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The right to price reduction under this clause is limited to defects in data relating to such modification.

(b) If any price, including profit, or fee, negotiated in connection with any price adjustment under this contract was increased by any significant sums because:

(1) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(2) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data-- Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;



(3) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(4) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (1), (2) or (3) above, which was not accurate, as submitted; the price shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor: Provided the actual subcontract price was not affected by defective cost or pricing data.

(Note: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

(e) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

#### 29. SUBCONTRACTOR COST AND PRICING DATA (1-3.814-3(a))

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances

(1) Prior to the award of any subcontract the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds \$100,000 when entered into except where the price thereof is based on adequate price competition, establish catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such expected subcontract hereunder in excess of \$100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST OR PRICING DATA-  
PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances:

(1) Prior to award of any subcontract, the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds \$100,000 when entered into.

30. UTILIZATION OF MINORITY BUSINESS ENTERPRISES (1-1.1310-2(a))  
(Applicable to Contracts exceeding \$10,000)

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American Orientals, American Indians, American Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

(c) The Contractor agrees to submit to the Contracting Officer in response to a Request for Proposal, Invitation for Bid, or Solicitation; the representation contained in FPR 1-1.1303.

(d) The Contractor further agrees to report all Minority Business Enterprise subcontract awards to the Contracting Officer using Optional Form 61 (see FPR 1-16.902-0F61). The Contractor may modify the Optional Form 61 to delete references to "Small Business" for the purpose of this report. Optional Form 61 may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

### 31. LISTING OF EMPLOYMENT OPENINGS (1-12.1102-2)

(Applicable Pursuant to 41 CFR 50-250 if this contract is for \$10,000 or more)

(a) The contractor agrees, in order to provide special emphasis to the employment of qualified disabled veterans and veterans of the Vietnam era, that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment other than the one wherein contract is being performed but excluding those of independently operated corporate affiliates, shall be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such reports to such local office regarding employment openings and hires as may be required; Provided, That if this contract is for less than \$10,000 or if it is with a State or local government the reports set forth in paragraphs (c) and (d) are not required.

(b) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment service or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. This listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in any statutes, executive orders, or regulations regarding nondiscrimination in employment.

(c) The reports required by paragraph (a) of this clause shall include, but not be limited to periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one establishment in a State with the central office of the State employment service. Such reports shall indicate for each establishment (1) the number of individuals who were hired during the reporting period, (2) the number of those hired who were disabled veterans, and (3) the number of those hired who were nondisabled veterans of the Vietnam era. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made under this contract. The contractor shall maintain copies of the reports submitted until the expiration of one year after final payment under the contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor.

(d) Whenever the contractor becomes contractually bound by the listing provisions of this clause, he shall advise the employment service system in each State wherein he has establishments of the name and location of each such establishment in the State. As long as the contractor is contractually bound to these provisions and has so advised the State employment system, there is no need to advise the State system when it is no longer bound by this contract clause.

(e) This clause does not apply to the listing of employment openings which occur and are filed outside of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(f) This clause does not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(g) As used in this clause:

(1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and non-production; plant and office; laborers and mechanics; supervisory and non-supervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than \$18,000 per year. The term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area of the establishment where the employment opening is to be filled, including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.



(3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's own organization (including any affiliates, subsidiaries, and parent companies), regularly established "recall" or "rehire" lists.

(4) "Openings which the contractor proposes \*\*\* to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings for which no consideration will be given to persons outside of a special hiring arrangement, including openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(5) "Disabled veteran" means a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at 30 percentum or more, or a person whose discharge of release from active duty was for a disability incurred or aggravated in line of duty.

(6) "Veteran of the Vietnam era" means a person (A) who (i) served on active duty with the Armed Forces for a period of more than 180 days, any part of which occurred after August 5, 1964, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for service-connected disability if any part of such duty was performed after August 5, 1964, and (b) who was so discharged or released within the 48 months preceding his application for employment covered by this clause.

(h) If any disabled veteran or veteran of the Vietnam era believes that the contractor (or any first-tier subcontractor) has failed or refuses to comply with the provisions of this contract clause relating to giving special emphasis in employment to veterans, such veteran may file a complaint with the veteran's employment representative at a local State employment service office who will attempt to informally resolve the complaint and then refer the complaint with a report on the attempt to resolve the matter to the State office of the Veterans' Employment Service of the Department of Labor. Such complaint shall then be promptly referred through the Regional Manpower Administrator to the Secretary of Labor who shall investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of this contract and the laws and regulations applicable thereto.

(i) The contractor agrees to place this clause (excluding this paragraph i.) in any subcontract directly under this contract.

### 32. PAYMENT OF INTEREST ON CONTRACTOR'S CLAIMS (1-1.322)

(a) If an appeal is filed by the contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such



interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the contractor furnishes to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decisions of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

### 33. EMPLOYMENT OF THE HANDICAPPED (FPR TEMP. REG. 38)

(a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973 as amended.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor provided by or through the Contracting Officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by the terms of Section 503 of the Act, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 503

of the Act, 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 Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

#### 34. CLEAN AIR AND WATER (1-1.2302)

(Applicable only if the contract exceeds \$100,000, or the Contracting Officer has determined that orders under an indefinite quantity contract in any one year will exceed \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1957c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or the contract otherwise exempt.)

(a) The contractor agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by Pub. L. 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Pub. L. 95-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of the contract.

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed.

(4) To insert the substance of the provisions of this clause into any nonexempt subcontract, including this paragraph (a)(4).

(b) The terms used in this clause have the following meanings:

(1) The term "Air-Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et. seq., as amended by Pub. L. 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq., as amended by Pub. L. 92-500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air

Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857(c) or (d)), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

### 35. NEGOTIATED OVERHEAD RATES-PREDETERMINED (1-3.704-2(c))

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment," the allowable indirect costs under this contract shall be obtained by applying predetermined overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than three (3) months after the close of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed predetermined overhead rate or rates based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of predetermined overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1-15.3 of the Federal Procurement Regulations (41 CFR 1-15.3), as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed predetermined overhead rates, (2) the bases to which rates apply, (3) the fiscal year unless the parties agree to a different period for which the rates apply, and (4) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of predetermined overhead rates for the initial period of contract performance, or for any fiscal year or different period agreed to by the parties, the Contractor shall be reimbursed either at: (1) the rates fixed for the previous fiscal year or other period, or (2) billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other period are established.

(f) Any failure by the parties to agree on any predetermined overhead rate or rates under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period of contract performance the parties fail to agree to a predetermined overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates-Postdetermined" clause set forth in § 1-3.704-2(a) of the Federal Procurement Regulations (41 CFR 1-3.704.-2(a)), as in effect on the date of this contract.

#### 36. NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (1-7.203-3)

(a) Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by an actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the Prime Contractor, as the case may be, of all relevant information with respect to such disputes.

#### 37. EXCUSABLE DELAYS (1-8.708)

Except with respect to defaults of subcontractors, the contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the contractor to make progress in the prosecution of the work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or



negligence of the Contractor. If the failure to perform is caused by the failure of the subcontractor to perform or make progress, and if such failure arises out of causes beyond control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the contractor shall not be deemed to be in default, unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other sources, (b) the Contracting Officer shall have ordered the contractor in writing to procure such supplies or services from such other sources, and (c) the contractor shall have failed to comply reasonably with such order. Upon request of the contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the clause hereof entitled "Termination for Default or for Convenience of the Government." (As used in this clause, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.)

38. GENERAL SERVICES ADMINISTRATION SUPPLY SOURCES (1-7.203-13)

The Contracting Officer may issue the Contractor an authorization to utilize General Services Administration supply sources for property to be used in the performance of this contract. Title to all property acquired under such an authorization shall vest in the Government. All property acquired under such an authorization shall be subject to the provisions of the clause of this contract entitled "Government Property," except paragraphs (a) and (b) thereof.

39. PREFERENCE FOR U.S. FLAG AIR CARRIERS (1-1.323-2)

(a) Pub. L. 43-623 requires that all Federal agencies and Government contractors and subcontractors will use U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available. It further provides that the Comptroller General of the United States shall disallow any expenditure from appropriated funds for international air transportation on other than a U.S. flag air carrier in the absence of satisfactory proof of the necessity therefor.

(b) The contractor agrees to utilize U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available.

(c) In the event that the contractor selects a carrier other than a U.S. flag air carrier for international air transportation; he will include a certification on vouchers involving such transportation which is essentially as follows:

CERTIFICATION OF UNAVAILABILITY OF U.S FLAG AIR CARRIERS

I hereby certify that transportation service for personnel (and their personal effects) or property by certificated air carrier was unavailable for the following reasons:<sup>1</sup> (state reasons).

<sup>1</sup>See Federal Procurement Regulations (41 CFR 1-1.323-3) or Section 1-336.2 of the Armed Services Procurement Regulations, as applicable.



(d) The terms used in this clause have the following meanings:

(1) "International air transportation: means transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States.

(2) "U.S. flag air carrier" means one of a class of air carriers holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board, approved by the President, authorizing operations between the United States and/or its territories and one or more foreign countries.

(3) The term "United States" includes the fifty states, Commonwealth of Puerto Rico, possessions of the United States, and the District of Columbia.

(e) The contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase hereunder which may involve international air transportation.

#### 40. NOTICE REGARDING LATE DELIVERY (1-7.204-4)

In the event the Contractor encounters difficulty in meeting the performance requirements, or anticipates difficulty in complying with the contract delivery schedule or date, the Contractor shall immediately notify the Contracting Officer thereof in writing, giving pertinent details, including the date by which it expects to complete performance or make delivery: Provided, however, that this data shall be informational only in character and that receipt thereof shall not be construed as a waiver by the Government of any contract delivery schedule or date, or any rights or remedies provided by law or under this contract.

#### 41. KEY PERSONNEL (1-7.304-6)

The personnel specified in this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer: Provided, That the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. The attachment to this contract may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

#### 42. COPYRIGHT (9-9.51C3(d))

(1) The contractor (i) 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 under this contract and (ii) 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 not include any copyrighted material in any written or copyrightable material furnished or delivered under this contract, without a license as provided for in paragraph (1)(ii) 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.

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

#### 43. COPYRIGHT INDEMNIFICATION OF GOVERNMENT (9-9.5104)

Except as otherwise provided, the contractor agrees to indemnify the Government, its officers, agents, servants, and employees against liability, including costs and expenses, for the infringement of any copyright in any work protected under the copyright laws of the United States arising out of the performance of this contract, including the reproduction, translation, publication or use of any such copyright material.

#### 44. LITIGATION AND CLAIMS (9-7.5006-50)

(a) Initiation of litigation. The contractor may, with the prior written authorization of the Contracting Officer, and shall, upon the request of the Commission initiate litigation against third parties, including proceedings before administrative agencies, in connection with this contract. The contractor shall proceed with such litigation in good faith and as directed from time to time by the Contracting Officer.

(b) Defense and settlement of claims. The contractor shall give the Contracting Officer immediate notice in writing (1) of any action, including any proceeding before an administrative agency, filed against the contractor arising out of the performance of this contract, and (2) any claim against the contractor, the cost and expense of which is allowable under the clause entitled "Allowable 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 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, 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.

45. PERMITS (9-7.5006-48)

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.

46. CONSULTANT OR COMPARABLE EMPLOYMENT SERVICES OF CONTRACTOR EMPLOYEES  
(9-7.5006-45(a))

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 proposed 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 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.

47. SAFETY, HEALTH, AND FIRE PROTECTION (9-7.5006-47 MODIFIED)

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 regulation and requirements (including reporting requirements) of the Commission and the Department of Labor. In the event that the Contractor fails to comply with said regulations the Contracting Officer may, without prejudice to legal or contractual rights of the Commission, issue an order stopping all or any other 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.

48. DISCLOSURE OF INFORMATION (9-7.5004-22)

(a) It is mutually expected that the activities under this contract will not involve Restricted Data, or other classified information or material. It is understood, however, that if in the opinion of either party this expectation changes prior to the expiration or termination of all activities under this contract, said party shall notify the other party accordingly in writing without delay. In any event, the contractor shall classify, safeguard, and otherwise act with respect to all Restricted Data and other classified information and material, in accordance with applicable law and the requirements of the Commission, and shall promptly inform the Commission in writing if and when Restricted Data or other classified information or material becomes involved. If and when Restricted Data or other classified information or material becomes involved, or in the mutual judgment of the parties it appears likely that Restricted Data or other classified information may become involved, the contractor shall have the right to terminate performance of the work under this contract and in such event the provisions of this contract respecting termination for the convenience of the Government shall apply.

(b) 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.

(c) The term "Restricted Data" as used in this article means all data concerning the design, manufacture, or utilization of atomic weapons, the production of special nuclear material or 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, as amended.

49. PRIVATE USE OF CONTRACT INFORMATION AND DATA (9-7.5006-59)

Except as specifically authorized by this contract, or as otherwise approved by the Contracting Officer, information and other data developed or acquired by or furnished the contractor in the performance of this contract, shall be used only in connection with the work under this contract.

50. DRAWINGS, DESIGNS, SPECIFICATIONS (9-7.5006-13)

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 relating to the work or any part thereof, 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), 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 and shall, subject to the right of the contractor to retain a copy of said material 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, patent, and use of information provisions, if any, of this contract.

#### 51. CONTRACTOR PROCUREMENT (9-7.5006-29)

(a) The Commission reserves the right at any time to require that the contractor submit for approval any or all procurements under this contract. The contractor shall not procure any item whose purchase is expressly prohibited by the written direction of the Commission and shall use such special and directed procurement sources as may be expressly required by the Commission. The contractor shall, if requested by the Contracting Officer, provide information concerning procurement methods, practices, and procedures used or proposed to be used and shall use methods, practices, and procedures which are acceptable to the Commission. Procurement arrangements under this contract shall not relieve the contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors) and shall be in such form and contain such provisions as are required by this contract or as the Commission may prescribe.

(b) Procurement or transfer of equipment, materials, supplies, or services from a contractor-controlled source (any division or other organizational component of the prime contractor (exclusive of the contracting component) and any subsidiary or affiliate of the contractor under a common control) shall be considered a procurement for the purposes of this article.

#### 52. FOREIGN TRAVEL

Foreign travel shall be subject to prior approval of the Contracting Officer for each trip regardless of whether funds for such travel are approved. The Contractor shall complete NRC Form 445 and submit it to the Contracting Officer for processing prior to travel. The Contracting Officer shall when appropriate brief the Contractor concerning any international and internal Commission relationships which should be considered. Foreign travel is any travel outside of Canada and the United States including its territories and possessions.

#### 53. SOVIET-BLOC CONTROLS (9-7.5006-53 MODIFIED)

(a) In connection with the contract activities, the Contractor agrees to comply with the requirements set forth in paragraphs (b) and (c) of this article relating to the countries listed therein. From time to time, by written notice to the Contractor, the Commission shall have the right to change the listing of countries in paragraph (b) hereof upon a determination by the Commission that such change is in conformance with national policy. The Contractor shall have the right to terminate its performance under this contract upon at least sixty (60) days prior written notice to the Commission if the Contractor determines that it is unable, without substantially interfering with its policies as an educational institution or without adversely



affecting its performance, to continue performance of the work under this contract as a result of a change in paragraph (b) or (c) hereof made by the Commission pursuant to the preceding sentence. If the Contractor elects to terminate performance, the provisions of this contract respecting termination for the convenience of the Government shall apply.

(b) Alien employees, guests and visitors.

(1) Definitions

- a. For purposes of these requirements, the countries included in this list are Soviet-Bloc countries.

Albania  
Bulgaria

Estonia  
Hungary

\*China, including Manchuria [and excluding Taiwan (Formosa)]  
(includes Inner Mongolia; the provinces of Tsinghai and Sikang;

Latvia

Kinkiang; Tibet; the former Kwantung Leased Territory: the  
present Port Arthur Naval Base Area and Lioaning Province)

Lithuania  
\*North Korea

\*Communist-controlled area of Viet Nam

\*Outer Mongolia

\*Cuba

Poland & Danzig

Czechoslovakia

Rumania

\*East Germany (Soviet Zone of Germany  
and the Soviet Sector of Berlin)

Union of Soviet  
Socialist Republics

\*Request for information from these countries should not be filled  
in the name of the Commission.

- b. An "alien" is one who is not a citizen of the United States.
- c. A "visitor" is one who comes to speak, listen or observe for a relatively short period of time without participating in the work of the facility visited and without NRC reimbursed compensation.
- d. An "alien regular employee" is one who is employed for an indefinite extended term of employment, or for a definite extended term of employment related to a specific project. An "alien temporary employee" is one who is employed on an intermittent, temporary or part-time basis for a definite period of time. This may be under a program providing for a combination of work and study or teaching.

- e. An "alien guest" is one on leave from his home institution, or sponsored by an organization, who participates to gain experience or to contribute by carrying out projects that are part of the Contractor's activities under this contract.

(When an alien cannot be clearly placed in one of the categories in (b)(1)d. or (b)(1)e. above, the Contractor shall consult with the Contracting Officer.)

- f. A "Soviet-Bloc Alien" is a non-immigrant national of a Soviet-Bloc country.
- g. A "Soviet-Bloc Organization" is an embassy, consulate, agency entity or other organization of a Soviet-Bloc country any employee of a Soviet-Bloc country, any citizen of such country, or individual or organization located in a Soviet-Bloc country.

(2) Prior approvals relating to Soviet-Bloc countries. The following activities under this contract will be subject to prior approval by the Commission:

- a. Employment by any Soviet-Bloc country or organization of a Contractor employee, while his salary is directly charged to NRC funds, or any person whose travel to and from such work is to be reimbursed from NRC funds.
- b. Employment or guest participation of a Soviet-Bloc alien.
- c. Invited participation by a Soviet-Bloc alien at a conference or symposium in the United States organized and directed under NRC sponsorship under this contract. Provided, however, that this requirement shall not apply to bona fide employees, staff members and staff appointees (e.g., visiting professors) of the Contractor.
- d. Travel to the Soviet-Bloc by a Contractor employee, while his salary is directly charged to NRC funds, or by any person whose travel is to be reimbursed from NRC funds.

(3) Report relating to Soviet-Bloc countries. In connection with the contract activities, the Contractor will inform the Commission in advance, whenever feasible, of proposed Soviet-Bloc alien visitors. The Contractor will furnish a report promptly after the departure of a Soviet-Bloc alien employee, visitor or guest.

(c) Dissemination of technical information to Soviet-Bloc nations. It is the policy of the Commission to permit and encourage, to the maximum extent practicable, the dissemination and exchange of unclassified technical information among scientists and technicians of this and other nations. The purpose is to provide that free interchange of ideas and criticism which is essential to peaceful scientific and industrial progress of mankind and to enlarge the fund

of technical information. This policy is aimed to foster such dissemination and exchange in general accordance with the practices and customs in international scientific and technical communication. The Contractor agrees to call the provisions of this paragraph (c) to the attention of such of its employees under this contract as may be appropriate and use its best efforts to ensure that the provisions of this paragraph (c) apply to transmittal to Soviet-Bloc nations [as defined in subparagraph (1) below] by the Contractor and its employees of unclassified and nonprivileged published and unpublished technical information materials developed in the course of the contract work. Such information materials include technical documents, reports, drawings, letters, memoranda, reprints, preprints, photographs, films, notes, etc.

(1) Definitions.

- a. "Soviet-Bloc nations" means the countries listed in paragraph (b)(1) above, the embassies, consulates and agencies of such countries, and individuals and organizations residing in such countries.
- b. "Published Information" means the following unclassified material originated in the course of the contract work:
  - (i) Material available to the public by purchase or without cost on an unrestricted basis;
  - (ii) Reprints, preprints, and page proofs of journal articles;
  - (iii) Material freely available to the public from the NRC depository libraries; and
  - (iv) Material available through the Technical Information Center, Oak Ridge, Tennessee (including internal and informal reports, drawings, diagrams, photographs and other illustrated data).
- c. "Unpublished information" refers to unclassified technical information originated in the course of the contract work but not available as described in b. above, e.g.:
  - (i) Communications replying to requests for technical information;
  - (ii) Manuscripts of articles prepared for journal publication that have not reached the preprint or page proof stage; and
  - (iii) Research materials for study, such as exposed nuclear emulsions, cloud or bubble chamber photographs.

(2) Procedures for unclassified unpublished reports.

- a. Requests from Soviet-Bloc nations may be filled by recipients of the request provided the information is available to

requesters in the United States. (In the case of materials such as emulsions irradiated in U.S. machines which cannot be reproduced, similar or equivalent services or items shall be made available to U.S. requesters.) When appropriate, equally valuable information will be requested in return.

- b. One (1) copy of all unpublished reports transmitted shall be forwarded to the Contracting Officer.
- (3) Unusual requests. Unusual requests from Soviet-Bloc nations or request from Soviet-Bloc nations for unpublished reports or physical materials and services which cannot be handled in accordance with procedures set forth in (2) above should be referred to the Commission. The referral should be accompanied by a recommendation for disposition (preferably in the form of a proposed reply), and, where practicable, copies or a listing of materials which might be provided to fill the request. Examples of such requests are:
- a. Requests for large collections of documents not readily available to the recipient of the request;
  - b. Requests for complete and detailed design information on major equipment such as reactors and accelerators; and
  - c. Official correspondence from any Soviet-Bloc government.
- (4) Technical information received from Soviet-Bloc nations which is considered to be of interest to the Commission or its contractors and which is not generally available shall be forwarded to the Technical Information Center, Oak Ridge, Tennessee, with appropriate comment, for reproduction and distribution.
- (5) Technical information desired from Soviet-Bloc nations which cannot be obtained by request may be reported to the Technical Information Center, Oak Ridge, Tennessee, with appropriate comment, suggestion or request for assistance.

#### 54. STOP WORK ORDER

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period at which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contractor shall either:

- (i) cancel the stop work order, or
- (ii) terminate the work covered by such order as provided in the "Default" or the "Termination for Convenience" clause of this contract.

(b) If a stop work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, or a combination thereof, and the contract shall be modified in writing accordingly, if:

- (i) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract, and
- (ii) the Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

(c) If a stop work order is not canceled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the stop work order shall be allowed in arriving at the termination settlement.

(d) If a stop work order is not cancelled and the work covered by such order is terminated for default, the reasonable costs resulting from the stop work order shall be allowed by equitable adjustment or otherwise.



55. PUBLICATION AND PUBLICITY

Unless otherwise specified in this contract, the Contractor is encouraged to publish and make available through accepted channels the results of its work under this contract. The Contractor shall submit a copy of each article or other information to the Project Officer prior to publication or dissemination for public use. If the article or other information is subsequently modified or altered in any manner, the Contractor shall promptly notify the Project Officer and furnish him/her a copy of the article or other information as finally submitted for publication or dissemination.

The Contractor shall acknowledge the support of the U. S. Nuclear Regulatory Commission whenever publicizing the work under this contract in any media. To effectuate the foregoing, the Contractor shall include in any publication resulting from work performed under this contract an acknowledgement substantially as follows:

"The work upon which this publication is based was performed pursuant to Contract (insert number) with the (insert name of constituent agency), U. S. Nuclear Regulatory Commission."

Either Clause No. 56 entitled "Dissemination of Contract Information" or Clause No. 55 is for application but not both. In the absence of a clear delineation, Clause No. 55 applies.

56. DISSEMINATION OF CONTRACT INFORMATION

The Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results of conclusions made pursuant to the performance of this contract, without the prior written consent of the Contracting Officer. (Two copies of any material proposed to be published or distributed shall be submitted to the Contracting Officer.) Failure to comply with this clause shall be grounds for termination of this contract.

57. WORK FOR OTHERS

Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego entering into consulting or other contractual arrangements with any firm or organization, the result of which may give rise to an actual or apparent conflict of interest with respect to the work being performed under this contract. The contractor shall insure that all employees designated as key personnel if any, under this contract abide by the provisions of this clause. If the contractor believes with respect to itself or any such employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a possible conflict of interest, the contractor shall obtain the written approval of the Contracting Officer prior to execution of such contractual arrangement.