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UNITED STATES
ATOMIC ENERGY COMMISSION
P. O. BOX 5400
ALBUQUERQUE, NEW MEXICO 87115

Modification No. 104
Supplemental Agreement
Contract AT(29-1)-1106

SUPPLEMENTAL AGREEMENT

This SUPPLEMENTAL AGREEMENT, effective on the 1st day of July, 1967, by and between THE UNITED STATES OF AMERICA (hereinafter called the "Government"), represented by the UNITED STATES ATOMIC ENERGY COMMISSION (hereinafter called the "Commission"), and THE DOW CHEMICAL COMPANY (hereinafter called the "Contractor"), a corporation organized and existing under the laws of the State of Delaware,

WITNESSETH THAT:

WHEREAS, effective January 18, 1951, the parties entered into Contract AT(29-1)-1106 for the management and operation by the Contractor of the Commission's Rocky Flats Plant and the performance of related work; and

WHEREAS, the contract previously has been amended by Modifications Nos. 1 through 56, 58, 61 through 64, 66 through 71, and 73 through 103; and

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JUL 11 1967
U.S. ATOMIC ENERGY COMMISSION
ALBUQUERQUE, NEW MEXICO

WHEREAS, the Commission desires to continue to utilize the management, engineering, scientific and manufacturing skills of the Contractor in the operation of the Rocky Flats Plant on the terms and conditions hereinafter set forth and the Contractor desires to continue to perform such work; and

WHEREAS, the parties desire to extend the term of the contract for another five years, to modify it in certain other respects and to incorporate the entire agreement of the parties into this one document, including its appendices, effective as to the rights, duties, obligations and performance on and after July 1, 1967; and

WHEREAS, this Supplemental Agreement is executed by the Commission under the authority of the Atomic Energy Act of 1954, as amended, and Section 302(c)(15) of the Federal Property and Administrative Services Act of 1949, as amended.

NOW THEREFORE, the parties agree that, effective July 1, 1967, Contract AT(29-1)-1106, including its appendices, as amended, is further amended to read in its entirety as follows:

ARTICLE I - DEFINITIONS

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

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.

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

3. Except as otherwise provided in this contract, the term "sub-contracts" includes purchase orders under this contract.

4. The term "Plant" means the Government -owned facilities known as the Rocky Flats Plant of the Commission located near Boulder, Colorado.

ARTICLE II - STATEMENT OF WORK

The Contractor shall furnish the personnel, services, materials and equipment (except such services, materials and equipment as are furnished by the Government) necessary for the management and operation of the Commission's Rocky Flats Plant and for the performance of the other work described in Appendix B "Scope of Work", which by this reference is incorporated in and made a part of this contract.

ARTICLE III - CHANGES

1. Changes and Adjustment of Fee. The Contracting Officer may at any time and without notice to the sureties, if any, issue written directions requiring additional work within the general scope of this contract or directing the omission of or variation in work covered by this contract. If any such direction results in a material change in the amount or character of the work described in the article entitled "Statement of Work," Appendix B, "Scope of Work" and/or in the document described in Paragraph 2a of the article entitled "Allowable Costs and Fixed Fee," an equitable adjustment of the fixed fee shall be made in accordance with the agreement of the parties and the contract shall be modified in writing accordingly. Any claim by the Contractor for an adjustment under this article must be asserted in writing within 90 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. A failure to agree on an equitable adjustment under this article shall be deemed to be a dispute within the meaning of the article entitled "Disputes."
2. Work to Continue. Nothing contained in this article shall excuse

the Contractor from proceeding with the prosecution of the work in accordance with the requirements of any direction hereunder.

ARTICLE IV - TERM, OBLIGATION OF FUNDS AND FINANCIAL PLANS

1. Term. The term of this contract shall be from January 18, 1951, through June 30, 1972, unless sooner terminated in accordance with the provisions of the article entitled "Termination."
2. Obligation of Funds. The amount presently obligated by the Government with respect to this contract is Three Hundred Fifty-three Million Nine Hundred Fifty-nine Thousand Eight Hundred Seventeen dollars (\$353,959,817.00). Such amount may be increased unilaterally by the Commission by written notice to the Contractor and may be increased or decreased by written agreement of the parties (whether or not by formal modification of this contract). Estimated revenues and receipts from others for work and services to be performed under this contract are not included in the amount obligated with respect to this contract. Such revenues and receipts, to the extent actually received by the Contractor, shall be available and used for the payment of allowable costs and fixed fee as provided in the article entitled "Payments and Advances." Nothing in this paragraph 2. is to be construed as authorizing the Contractor to exceed limitations stated in financial plans established by the Commission and furnished to the Contractor from time to time under this contract.

Limitation on Payment by the Government. Except as otherwise provided in this contract and except for costs which may be incurred by the Contractor pursuant to the article entitled "Termination" or costs of claims allowable under the contract accruing after completion or termination and not released by the Contractor at the time of financial settlement of the contract in accordance with the article entitled "Payments and Advances," payment by the Government under this contract on account of allowable costs shall not in the aggregate exceed the amount obligated with respect to this contract, less the Contractor's fixed fee. Unless expressly negated in this contract, payment on account of those costs excepted in the preceding sentence which are in excess of the amount obligated with respect to this contract shall be subject to the availability of (a) revenues and receipts deposited to the Government's account as provided in the article entitled "Payments and Advances" and (b) other funds which the Commission may legally use for such purpose; provided, the Commission will use its best efforts to obtain the appropriation of funds for this purpose if not otherwise available.

4. Notices - Contractor Excused from Further Performance. The Contractor shall notify the Commission in writing whenever the

unexpended balance of funds (including revenues and receipts) available under paragraph 2. above, plus the Contractor's best estimate of revenues and receipts to be received during the ninety day period hereinafter specified, is in the Contractor's best judgment sufficient to continue contract operations at the programmed rate for only ninety days and to cover the Contractor's unpaid fixed fee and outstanding commitments and liabilities on account of costs allowable under the contract at the end of such period. Whenever the unexpended balance of funds (including revenues and receipts) available under paragraph 2. above, less the amount of the Contractor's fixed fee then earned but not paid, is in the Contractor's best judgment either sufficient only to liquidate outstanding commitments and liabilities on account of costs allowable under this contract or is equal to zero, the Contractor shall immediately notify the Commission and shall make no further commitments or expenditures (except to liquidate existing commitments and liabilities), and, unless the parties otherwise agree, the Contractor shall be excused from further performance (except such performance as may become necessary in connection with termination by the Government) and the performance of all work hereunder will be deemed to have been terminated for the convenience of the Government in accordance with the provisions of the article entitled "Termination."

Financial Plans; Cost and Commitment Limitations. In addition to the limitations provided for elsewhere in this contract, the Commission may, through financial plans or other directives issued to the Contractor, establish controls on the cost to be incurred and commitments to be made in the performance of the contract work. Such plans and instructions may be amended or supplemented from time to time by the Commission. The contractor hereby agrees to comply with the specific limitations (ceilings) on costs and commitments set forth in such plans and directives, to use its best efforts to comply with the other requirements of such plans and directives, and to promptly notify the Commission in writing whenever it has reason to believe the authorized financial levels of costs and commitments will be exceeded or substantially underrun.

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

ARTICLE V - ALLOWABLE COSTS AND FIXED FEE

1. Compensation for Contractor's Services. Payment for the allowable cost as hereinafter defined, and of the fixed fee, as hereinafter provided, shall constitute full and complete compensation for the performance of the work under this contract.

2. a. Fixed Fee. The fixed fee payable to the contractor for the performance of the work during the period July 1, 1967, through June 30, 1968, is One Million Six Hundred Thousand Dollars (\$1,600,000.00). In agreeing upon the fixed fee to be paid, the amount and character of the work which the parties contemplated would be performed by the Contractor during the period July 1, 1967, through June 30, 1968, is that reflected in the work assumptions set forth in Secret Restricted Data Letter, Michael J. Sunderland to Lloyd M. Joshel, dated June 13, 1967, Subject: "Work Assumptions and Related Estimated Costs -Negotiation of Contract AT(29-1)-1106 With The Dow Chemical Company."

There shall be no adjustment in the amount of the Contractor's fixed fee by reason of differences between any estimate of cost for performance of the work under this contract and the actual cost for performance of that work.

- b. Provisional Fee Payment. The Contractor shall also receive a fixed fee for performance of work in succeeding annual periods beginning each July 1, during the term of this contract, each such fee to be based upon the work to be performed in the annual period involved and to be as negotiated and determined prior to the start of the period or at such later time as the

parties may agree. If the aforementioned determination has not been made prior to the start of the annual period involved, the Contractor shall continue to receive monthly payments on account of fixed fee at the rate in effect during the immediately preceding annual period. Appropriate adjustment will be made promptly upon determination of the fixed fee for the new annual period.

3. Allowable Cost. The allowable cost of performing the work under this contract shall be the costs and expenses that are actually incurred by the Contractor in the performance of the contract work in accordance with its terms, that are necessary or incident thereto, and are determined to be allowable pursuant to this paragraph 3. The determination of the allowability of cost hereunder shall be based on: (i) reasonableness, including the exercise of prudent business judgment; (ii) consistent application of generally accepted accounting principles and practices that result in equitable charges to the contract work; and (iii) recognition of all exclusions and limitations set forth in this article or elsewhere in the contract as to types or amounts of items of cost. Allowable cost shall not include cost of any item described as unallowable in paragraph 5. of this article except as indicated therein. Failure to mention an item of cost specifically in paragraph 4. or paragraph 5. shall not imply

whether that it is allowable or that it is unallowable. The question of allowability, unless disposed of by mutual agreement, shall be disposed of in accordance with the article entitled "Disputes" to the extent that article is by its terms applicable to the question involved.

4. Examples of Items of Allowable Cost. Subject to the other provisions of this article, the following examples of items of cost of work done under this contract shall be allowable to the extent indicated:

- a. Bonds and insurance including self-insurance, as provided in the article entitled "Required Bonds and Insurance - Exclusive of Government Property."
- b. Communication costs, including telephone services, local and long distance calls, telegrams, cablegrams, radiograms, postage and similar items.
- c. Consulting services (including legal and accounting) and related expenses, as approved by the Contracting Officer except as made unallowable by paragraph 5. w.
- d. Payments of third party claims, judgments and litigation expenses, including reasonable counsel fees, in accordance with the article entitled "Litigation and Claims."

- e. Losses and expenses sustained by the Contractor in the performance of the work under this contract and approved by the Contracting Officer.
- f. Materials, supplies and equipment, including freight, transportation, material handling, inspection, storage, salvage, and other usual expenses incident to the procurement, use and disposition thereof, subject to approvals required under other provisions of this contract.
- g. Patents, purchased design, and royalty payments to the extent expressly provided for under other provisions in this contract or as approved by the Contracting Officer; and preparation of invention disclosures, reports and related documents.
- h. Personnel costs and related expenses incurred in accordance with Appendix A or amendments thereto.
- i. Disposal of Government-owned property and the restoration or cleanup of site and facilities to the extent directed or approved by the Contracting Officer.
- j. Repair, maintenance, inspection and replacement of Government-owned property, subject to the limitations set forth in other provisions of this contract.
- k. Subcontracts and purchase orders, including purchases from

Contractor-controlled sources, subject to approvals required by other provisions of this contract.

- l. Subscriptions to trade, business, technical and professional periodicals, as approved by the Contracting Officer.
- m. Taxes, fees, and charges levied by public agencies which the Contractor is required by law to pay, except those which are expressly made unallowable under other provisions of this contract.
- n. Utility services, including electricity, gas, water, steam, and sewerage.
- o. Establishment and maintenance of bank accounts in connection with the work hereunder, including, but not limited to, service charges, the cost of disbursing cash, necessary guards, cashiers and paymasters. If payments to employees are made by check, facilities and arrangements for cashing checks may be provided without expense to the employees, subject to the approval of the Contracting Officer.
- p. Travel and subsistence expenses and basic salary of the Contractor's employees not carried on the Plant payroll when such employees travel away from their regular duty stations to perform work under this contract with the prior written approval of the Contracting Officer; provided that in no event shall there be allowable under this contract travel and subsistence expenses or any portion of the salary or other

compensation for services paid to a director or an elected officer of the Contractor.

5. Examples of Items of Unallowable Costs. The following examples of items of cost are unallowable under this contract to the extent indicated:

- a. Advertising, except (i) help wanted advertising, and (ii) other advertising (such as costs of participation in exhibits) approved by the Contracting Officer as clearly in furtherance of work performed under the contract.
- b. Bad debts (including expenses of collection) and provisions for bad debts arising out of other business of the Contractor.
- c. Bidding expenses and costs of proposals except as approved by the Contracting Officer.
- d. Bonuses and similar compensation under any other name which (i) are not pursuant to an agreement between the Contractor and employee prior to the rendering of the services or an established plan consistently followed by the Contractor; (ii) are in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder; or (iii) provide total compensation to an employee in excess of reasonable compensation for the services rendered.

- e. Central and branch office expenses of the Contractor, except as specifically set forth in the contract.
- f. Commissions, bonuses and fees (under whatever name) in connection with obtaining or negotiating for a Government contract or a modification thereto.
- g. Contingency reserves, provisions for.
- h. Contributions and donations.
- i. Dividend provisions or payments.
- j. Entertainment costs, except the costs of such recreational activities for on-site employees as may be approved by the Contracting Officer or provided for elsewhere in this contract.
- k. Fines and penalties including assessed interest, resulting from violations of, or failure of the Contractor to comply with Federal, state, or local laws or regulations, except when incurred in accordance with the written approval of the Contracting Officer or as a result of compliance with the provisions of this contract.
- l. Government-furnished property, except to the extent that cash payment therefor is required pursuant to procedures of the Commission applicable to transfers of such property to the Contractor from others.

- Insurance (including any provisions of a self-insurance reserve) on any person where the Contractor under the insurance policy is the beneficiary, directly or indirectly, and insurance against loss of or damage to Government Property as defined in the article entitled "Property".
- n. Interest, however represented (except interest incurred in compliance with the article entitled "State and Local Taxes", bond discounts and expenses, and costs of financing and re-financing operations.
- o. Legal, accounting, and consulting services and related costs in incurred in connection with the preparation of prospectuses, preparation and issuance of stock rights, organization or reorganization, prosecution or defense of antitrust suits, prosecution of claims against the United States, contesting actions or proposed actions of the United States, and prosecution or defense of patent-infringement litigation.
- p. Losses (including litigation expenses, counsel fees, and settlements) on, or arising from sale, exchange, or abandonment of Contractor-owned capital assets, including investments; losses on other contracts, including the Contractor's contributed portion under cost-sharing contracts; losses in

connection with price reductions to and discount purchases by employees and others from any source; and losses where such losses or expenses-- (1) are compensated for by insurance or otherwise or which would have been compensated by insurance required by law or by written direction of the Contracting Officer but which the Contractor failed to procure or maintain through its own fault or negligence; (2) result from wilful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel as defined in the article entitled "Property"; (3) represent liabilities to third persons for which the Contractor has expressly accepted responsibility under other terms of this contract.

- q. Membership in trade, business, and professional organizations except as approved by the Contracting Officer.
- r. Pre-contract costs, except as expressly made allowable under other provisions in this contract.
- s. Research and development costs, unless specifically provided for elsewhere in this contract.
- t. Storage of records pertaining to this contract after completion of operations under this contract irrespective of

contractual or statutory requirements for the preservation of records.

- u. Taxes, fees, and charges in connection with financing, refinancing, or refunding operations, including the listing of securities on exchange; taxes which are paid contrary to the article entitled "State and Local Taxes"; taxes on net income and excess profits; and special assessments on Contractor-owned land which represent capital improvement.
- v. Cost of any actions with respect to which the Contractor fails to secure prior or advance approval or authorization where required by any provision of this contract, unless such actions are subsequently ratified by the Contracting Officer.
- w. Salary or other compensation (and expenses related thereto) of any individual employed under this contract as a consultant or in another comparable employment capacity who is an employee of another organization and concurrently performing work on a full-time annual basis for that organization under a cost-type contract with the Commission, except to the extent that cash payment therefor

is required pursuant to the provisions of this contract or procedures of the Commission applicable to the borrowing of such an individual from another cost-type contractor.

x. First-class air travel in excess of the cost of less than first-class air accommodations, except when less than first-class accommodations are not reasonably available to meet necessary mission requirements, such as, where less than first-class accommodations would:

- (1) require circuitous routing;
- (2) require travel during unreasonable hours;
- (3) greatly increase the duration of the flight;
- (4) result in additional costs which would offset the transportation savings;
- (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

ARTICLE VI - PAYMENTS AND ADVANCES

1. Installments of Fixed Fee. The fixed fee provided for in the article entitled "Term, Obligation of Funds and Financial Plans" shall be paid in equal monthly installments as it accrues.
2. Payments on Account of Allowable Costs and Fixed Fee. Payments for allowable costs shall be made from funds available

under this contract. The Contractor shall submit a separate voucher for each installment of fixed fee as it accrues, and with the written approval of the Contracting Officer, may pay such installment of fixed fee from funds available under this contract.

3. Special Bank Account - Use. All advances of Government funds shall be made by check payable to the Contractor, or shall be secured through a Letter of Credit procedure authorized by the Fiscal Assistant Secretary, U. S. Treasury Department, and shall be deposited only in a Special Bank Account or Accounts, established by an Agreement for Special Bank Account in the form and containing the provisions set forth in Appendix C of this contract. The Contractor shall likewise deposit in such a Special Bank Account any other revenues (except the Contractor's fixed fee) received by the Contractor in connection with the work under this contract. No part of the funds in a Special Bank Account shall be (i) mingled with any funds of the Contractor or (ii) used for a purpose other than that of making payments for costs allowable under this contract and payments of the Contractor's fixed fee as provided for elsewhere in this contract. If the Contracting Officer shall at any time determine that the balance in such bank account exceeds the Contractor's current

needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.

4. Title to Funds Advanced. Title to the unexpended balance of any funds advanced and of any bank account established pursuant to this article shall remain in the Government and be superior to any claim or lien of the bank of deposit or others. It is understood that an advance to the Contractor hereunder is not a loan to the Contractor and will not require the payment of interest by the Contractor, and that the Contractor acquires no right, title, or interest in or to such advance other than the right to make expenditures therefrom as provided in this article.

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

subsequent adjustments, or for errors later becoming known to the Commission.

6. Financial Settlement. The Government shall promptly pay to the Contractor the unpaid balance of allowable costs and fixed fee upon termination of the work, expiration of the term of the contract, or completion of the work and its acceptance by the Government after (i) compliance by the Contractor with the Commission's patent clearance requirements, and (ii) the furnishing by the Contractor of:

- a. An assignment of the Contractor's rights to any refunds, rebates, allowances, accounts receivable, or other credits applicable to allowable costs under the contract;
- b. A closing financial statement;
- c. The accounting for Government-owned property required by the article entitled "Property"; and
- d. 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: (1) specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor; (2) 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 that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six 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 (3) claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

In arriving at the amount due the Contractor under this paragraph 6., there shall be deducted (a) any claim which the Government may have against the Contractor in connection with this contract, and (b) deductions due under the terms of this contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the Special Bank Account or Accounts may be applied to the amount due and any balance shall be returned to the Government forthwith.

7. Claims. Claims for credit against funds advanced or for payment shall be accompanied by such supporting documents and justification as the Contracting Officer shall prescribe.
8. Discounts. The Contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions unless the Contracting Officer finds that such action is not in the best interest of the Government.
9. Revenues. All revenues other than the Contractor's fixed fee accruing to the Contractor in connection with the work under this contract shall be Government Property and shall be deposited in a Special Bank Account to be available for payment of allowable cost under this contract.
10. Direct Payment of Charges - Deductions. The Government reserves the right, upon 10 days written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the Contractor therefor.

ARTICLE VII - ASSIGNMENT

Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the Contractor except as expressly

authorized in writing by the Contracting Officer.

ARTICLE VIII - ACCOUNTS, RECORDS AND INSPECTION

1. Accounts. The Contractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting all allowable costs incurred, revenues or other applicable credits, fixed fee accruals, and the receipt, use and disposition of all Government Property coming into the possession of the Contractor under this contract. The system of accounts employed by the Contractor shall be satisfactory to the Commission and in accordance with generally accepted accounting principles consistently applied.
2. Inspection and Audit of Accounts and Records. All books of account and records relating to this contract shall be subject to inspection and audit by the Commission at all reasonable times, before and during the period of retention provided for in paragraph 4. below, and the Contractor shall afford the Commission proper facilities for such inspection and audit.
3. Audit of Subcontractor's Records. The Contractor also agrees, with respect to any subcontracts (including lump-sum or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to conduct an audit of the costs of the subcontractor in a manner satisfactory to

the Commission or to have the audit conducted by the next higher tier subcontractor in a manner satisfactory to the Contractor and the Commission, except when the Commission elects to waive such audit or approves other arrangements for the conduct of the audit.

4. Disposition of Records. Except as otherwise agreed upon by the Government and the Contractor, all financial and cost reports, books of account, and supporting documents, and other data evidencing costs allowable and revenues and other applicable credits under this contract, shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the Contractor either as the Contracting Officer may from time to time direct during the progress of the work or in any event as the Contracting Officer shall direct upon completion or termination of this contract and final audit of all accounts hereunder. All other records in the possession of the Contractor relating to this contract shall be preserved by the Contractor for a period of three years after settlement of the contract or otherwise disposed of in such manner as may be agreed upon by the Government and the Contractor. The Contractor shall, subject to the Commission security regulations

and requirements, and the other provisions of this contract, have the right to inspect and at its own expense duplicate any records delivered or to be delivered to the Government by the Contractor under this contract; provided, however, that nothing in this paragraph 4. shall constitute any commitment on the part of the Government to retain such records for any period beyond the Commission's customary retention periods for records of this type.

5. Reports. The Contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this contract as the Contracting Officer may from time to time require.
6. Inspections. The Commission shall have the right to inspect the work and activities of the Contractor under this contract at such time and in such manner as it shall deem appropriate.
7. Subcontracts. The Contractor further agrees to require the inclusion of provisions similar to those in paragraphs 1. through this paragraph 7. of this article in all subcontracts (including lump-sum or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.

8. Internal Audit. The Contractor agrees to conduct an internal audit and examination satisfactory to the Commission of the records, operations, expenses, and the transactions with respect to costs claimed to be allowable under this contract annually and at such other times as may be mutually agreed upon. The results of such audit, including the working papers, shall be submitted or made available to the Contracting Officer.

ARTICLE IX - EXAMINATION OF RECORDS

1. The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract unless the Commission authorizes their prior disposition.
2. 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 three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions

related to the subcontract unless the Commission authorizes their prior disposition. The term "subcontract" as used in this article excludes (a) purchase orders not exceeding \$2,500; and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

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

ARTICLE X - PROPERTY

1. Furnishing of Government Property. The Government reserves the right to furnish any property required for the performance of the work under this contract.
2. Title to Property. Title to all property furnished by the Government shall remain in the Government except as otherwise provided in this article. Except as otherwise directed by the Contracting Officer, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Contractor, the cost of which is allowable as a direct item of cost under this contract, shall pass directly from the vendor to the Government. The Government reserves the right to inspect, and to accept or reject, any item of such property. The Contractor

shall make such disposition of rejected items as the Contracting Officer shall direct. Title to property, the cost of which is reimbursable under any cost-type subcontract or purchase order entered into by the Contractor under this contract shall pass to and vest in the Government upon (i) purchase by the subcontractor or vendor specifically for use under such subcontract or purchase order, (ii) issuance for use of such property in the performance of such subcontract or purchase order, (iii) commencement of processing or use of such property in the performance of such subcontract or purchase order, or (iv) payment of the cost thereof at the Government's expense, whichever first occurs. An appropriate clause implementing the intent of this paragraph will be incorporated in all subcontracts and purchase orders. Property furnished by the Government and property purchased or furnished by the Contractor, title to which vests in the Government under this paragraph, are hereinafter referred to as Government Property. Title to Government Property shall not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government Property or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

3. Identification and Marking. To the extent directed by the Contracting Officer, the Contractor shall identify Government Property coming into the Contractor's possession or custody by marking or segregating in such a way, satisfactory to the Contracting Officer, as shall indicate its ownership by the Government. The Contractor shall provide additional descriptive and identification marking of raw materials and other property as the Contracting Officer may direct.
4. Disposition. The Contractor shall make such disposition of Government Property which has come into the possession or custody of the Contractor under this contract as the Contracting Officer shall direct. When authorized in writing by the Contracting Officer during the progress of the work or upon completion or termination of this contract, the Contractor may, upon such terms and conditions as the Contracting Officer may approve, sell, or exchange such property, or acquire such property at a price agreed upon by the Contracting Officer and the Contractor as the fair value thereof. The amount received by the Contractor as the result of any disposition, or the amount of the agreed fair value of any such property acquired by the Contractor, shall be applied in reduction of cost allowable under this contract, or shall be

otherwise credited to account of the Government, as the Contracting Officer may direct. Upon completion of the work or the termination of this contract, the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government Property which has come into the possession or custody of the Contractor under this contract.

5. Protection of Government Property Including Classified Materials. The Contractor shall take all reasonable precautions, as directed by the Contracting Officer, or in the absence of such directions, in accordance with sound industrial practice, to safeguard and protect Government Property in the Contractor's possession or custody. Special measures shall be taken by the Contractor in the protection of and accounting for any classified or special materials involved in the performance of this contract, in accordance with the regulations and requirements of the Commission.
6. Risk of Loss of Government Property. Notwithstanding any other provision of this contract to the contrary, the Contractor shall not be liable for loss or destruction of or damage to Government Property in the Contractor's possession unless

(1) such loss, destruction or damage results from wilful misconduct or lack of good faith on the part of the Contractor's managerial personnel, or unless (2) such loss, destruction or damage results from a failure on the part of the Contractor's managerial personnel to take reasonable steps to comply with any appropriate specific, detailed, self-contained written directives of the Contracting Officer to safeguard such property under paragraph 5. hereof; provided, that the Contractor's liability with respect to (2) above shall be limited to two-thirds of the total fee to be paid to the Contractor for the period July 1, 1962 through June 30, 1972. The term "Contractor's managerial personnel" as used herein means the Contractor's directors, corporate officers, and the supervising representative referred to in the article entitled "Contractor's Organization."

7. Steps to be Taken in Event of Loss. Upon the happening of any loss or destruction of or damage to Government Property in the possession or custody of the Contractor estimated to involve a cost in excess of \$500.00 the Contractor shall immediately inform the Contracting Officer of the occasion and extent thereof. The Contractor shall take all reasonable steps to clean up, decontaminate and protect the property remaining; and shall repair or

replace the lost, destroyed, or damaged property, if and as directed by the Contracting Officer, but shall take no action known to be prejudicial to the right of the Government to recover therefor and shall furnish to the Government, on request, all reasonable assistance in obtaining recovery.

8. Government Property for Government Use Only. Except as otherwise authorized by the Contracting Officer, Government Property shall be used only for the performance of this contract.
9. Property Management. The Contractor shall maintain a property management system acceptable to the Contracting Officer, covering all phases of supply activity including stock control and disposal. The system shall be designed to procure, utilize, protect, and control all property adequately. Procedures for the performance of such functions shall have the approval of the Contracting Officer and will not be materially changed thereafter without the approval of the Contracting Officer.

ARTICLE XI-DRAWINGS, DESIGNS, SPECIFICATIONS

1. All drawings, sketches, designs, design data, specifications, notebooks, technical and scientific data or information, 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, which are prepared or developed by the Contractor under this contract, 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, 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 and patent provisions of this contract.

2. Unless otherwise authorized by the Contracting Officer, the Contractor shall insert this article, including this paragraph 2., in all its subcontracts and purchase orders under this contract.

3. The Contractor agrees that it will not knowingly include any copyrighted material in any material furnished or delivered under this contract without a written license or consent of the copyright owner, unless specific written approval of the Commission for the inclusion of such copyrighted material is secured.

ARTICLE XII - REQUIRED BONDS AND INSURANCE - EXCLUSIVE
OF GOVERNMENT PROPERTY

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

ARTICLE XIII - STATE AND LOCAL TAXES

1. The Contractor agrees to notify the Commission of any state or local tax, fee, or charge levied or purported to be levied on or collected from the Contractor with respect to the contract work, any transaction thereunder, or property in the custody or control of the Contractor which may be claimed as an allowable

item of cost; and the Contractor further agrees to refrain from paying any such tax, fee, or charge unless authorized in writing by the Commission. Any state or local tax, fee, or charge paid with the approval of the Commission or on the basis of advice from the Commission that such tax, fee, or charge is applicable and valid, and which would otherwise be an allowable item of cost, shall not be disallowed as an item of cost by reason of any subsequent ruling or determination that such tax, fee, or charge was in fact inapplicable or invalid.

2. The Contractor agrees to take such action as may be required or approved by the Commission to cause any state or local tax, fee, or charge which would be an allowable cost to be paid under protest; and to take such action as may be required or approved by the Commission to seek recovery of any payments made, including assignment to the Government or its designee of all rights to an abatement or refund thereof, and granting permission for the Government to join with the Contractor in any proceedings for the recovery thereof or to sue for recovery in the name of the Contractor. If the Commission directs the Contractor to institute litigation to enjoin the collection of or to recover payment of any such tax, fee, or charge referred to

above, or if a claim or suit is filed against the Contractor for a tax, fee, or charge it has refrained from paying in accordance with this article, the procedures and requirements of the article entitled "Litigation and Claims" shall apply and the costs and expenses incurred by the Contractor shall be allowable items of cost as provided in this contract, together with the amount of any judgment rendered against the Contractor.

3. The Government shall save the Contractor harmless from penalties and interest incurred through compliance with this article. All recoveries or credits in respect of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Government.

ARTICLE XIV - LITIGATION AND CLAIMS

1. Initiation of Litigation. If the Government requires the Contractor to initiate litigation, including proceedings before administrative agencies, in connection with this contract, the Contractor shall proceed with the litigation in good faith as directed from time to time by the Contracting Officer.
2. Defense and Settlement of Claims. The Contractor shall give the Contracting Officer immediate notice in writing of any action, including any proceeding before an administrative

agency, filed against the Contractor arising out of the performance of this contract, and timely notice of any claim against the Contractor the cost and expense of which is allowable under the article entitled "Allowable Costs and Fixed Fee".

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 claim or action and to represent the Contractor in, or to take charge of, any action. If the settlement or defense of an action or claim against the Contractor is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered

by a policy of insurance, the Contractor shall, with the approval of the Contracting Officer, proceed with the defense of the action in good faith; and in such event the defense of the action shall be at the expense of the Government; provided, however, that the Government shall not be liable for such expense to the extent that it would have been compensated for by insurance which was required by law or by the written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

ARTICLE XV - DISPUTES

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

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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 article, 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.

2. This "Disputes" article does not preclude consideration of law questions in connection with decisions provided for in paragraph 1. 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.

ARTICLE XVI - SUBCONTRACTS AND PURCHASE ORDERS

1. The Government reserves the right to require the Contractor to, and the Contractor shall, enter into such subcontracts and purchase orders in connection with the performance of work under this contract as the Contracting Officer may direct. Except as otherwise authorized by the Contracting Officer, all subcontracts and purchase

orders for performance of work at the Plant shall have the prior approval of the Contracting Officer. The Contractor shall not procure items or services whose purchase is expressly prohibited by written direction of the Contracting Officer.

The Government reserves the right to require at any time that the Contractor submit any or all contractual arrangements for Contracting Officer approval. Contractual arrangements shall not relieve the Contractor of any obligation under this contract, including, among other things, the obligation properly to administer such arrangements and supervise and coordinate the work of subcontractors and vendors.

2. The subcontracting of any part of the work under this contract shall not entail any adjustment in the Contractor's fixed fee unless this contract has been entered into on the understanding, expressly stated in Appendix B, "Scope of Work," that such part of the work would not be subcontracted; and in that event an equitable downward adjustment in the fixed fee shall be made and the contract shall be modified in writing accordingly. A failure to agree on an equitable adjustment under this paragraph shall be deemed to be a dispute within the meaning of the article entitled "Disputes."

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The Contractor shall prepare and submit to the Contracting Officer for approval written procurement policies and procedures, including but not limited to requirements relative to cost or pricing data and contractual forms and provisions, consistent with this contract and the Commission's procurement policies applicable to cost-type contractors operating Commission facilities as expressed in the AECPR's. The Contractor will make appropriate changes in its written procurement policies and procedures in order adequately to achieve the Commission's policy objectives when the Contractor is so requested by the Contracting Officer or when required by applicable statutes and Executive Orders. The Contractor will follow such written policies and procedures as are approved by the Contracting Officer and will make no changes in such policies and procedures unless authorized or directed by the Contracting Officer. Nothing herein is intended to relieve the Contractor of the obligation to appraise critically its procurement activities in order to improve performance under this contract and to request approval for changes in its written procurement policies and procedures when appropriate.

ARTICLE XVII - PURCHASES FROM CONTRACTOR-
CONTROLLED SOURCES

1. Prior to awarding a purchase order to a division, department or affiliate of the Contractor on the basis of competitive bids, the Contractor shall obtain the review and approval of the Contracting Officer of the bid solicitation, evaluation and proposed awards. In all such cases in which the Contractor has design responsibility, the Contractor shall prepare proper specifications, drawings and such other data as may be necessary, on a basis which will permit fair and open competition and orderly and timely procurement with relation to the work.
2. The Contractor may procure on a negotiated basis, subject to the limitations in this paragraph and subparagraph a. or b. as applicable, materials, supplies, equipment, or services manufactured or sold by the Contractor's division, departments, or affiliates from such divisions, departments, or affiliates; provided, however, that unless otherwise authorized by the Contracting Officer, no such procurement shall be made by the Contractor without prior written approval of the Contracting Officer.
 - a. Standard commercial articles and standard supplies of Contractor-controlled sources which have published unit prices of less than \$100.00 or such higher amount as may be

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

- b. All other articles produced or services performed by Contractor-controlled sources shall be provided on the basis of allowable cost without additional fee, and subject to the terms of this contract; provided, however, that if mutually

agreed, they may be furnished at fixed prices firmied at the outset; provided further, that any such fixed prices shall be negotiated on the basis of estimated allowable cost under this contract, without profit.

ARTICLE XVIII - SAFETY, HEALTH, AND FIRE PROTECTION

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

ARTICLE XIX - PERMITS

Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses and abide

by all applicable laws, regulations and ordinances of the United States and of the State, territory and political subdivision in which the work under this contract is performed.

ARTICLE XX - CONTRACTOR'S ORGANIZATION

1. Organization Chart. As promptly as possible after the execution of this contract the Contractor shall furnish to the Contracting Officer a chart showing the names, duties and organization of key personnel employed or to be employed in connection with the work, and shall furnish from time to time supplementary information reflecting changes therein.
2. Supervising Representative of Contractor; Supervisors Reporting Directly to Supervising Representative. A competent full-time supervising representative of the Contractor, resident at the Plant, satisfactory to the Contracting Officer shall be in charge of the work under this contract. The employment of an individual in a supervisory position reporting directly to the supervising representative must have the written approval of the Contracting Officer. The Contractor shall not remove any such individual without giving prior notice to the Contracting Officer. Whenever, for any reason, an individual employed in such a position is unavailable for continuing assignment to the position, the Contractor shall, with the approval of the Contracting Officer, replace the

individual with another of substantially equal abilities and qualifications.

3. Control of Employees. The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct and integrity and shall be responsible for taking such disciplinary action with respect to its employees as may be necessary. The Contractor shall establish such standards and procedures as are necessary to implement effectively the provisions set forth in Atomic Energy Commission Procurement Regulations 9-12.54, as amended through July 30, 1966, and such standards and procedures shall be subject to the approval of the Contracting Officer.

4. Consultant or Other Comparable Employment Services of Contractor Employees. The Contractor shall require all employees who are employed full-time (an individual who performs work under the cost-type contract on a full-time annual basis) or part-time (50% or more of regular annual compensation received under terms of a contract with the Commission) on the contract work to disclose to the Contractor all consultant or other comparable employment services which the employees propose to undertake for others. The Contractor shall transmit to the Contracting Officer all

information obtained from such disclosures. The Contractor will require any employee who will be employed full-time on the contract work to agree, as a condition of his participation in such work, that he will not perform consultant or other comparable employment services for another Commission cost-type contractor or in the atomic energy field for another organization except with the prior approval of the Contractor.

If the Contractor believes, with respect to any employee who is employed full-time on the contract work, that any proposed consultant or other comparable employment service for an organization in the atomic energy field other than a Commission cost-type contractor may involve (a) a rate of remuneration significantly in excess of the employee's regular rate of remuneration or (b) a significant question concerning possible conflict with (1) the Commission's policies regarding conduct of employees of the Commission's Contractors, (2) the Contractor's responsibility to report fully and promptly to the Commission all significant research and development information, or (3) the patent provisions of the Contractor's contract with the Commission, the Contractor shall obtain the prior approval of the Contracting Officer for such consultant or other comparable employment service.

ARTICLE XXI - LABOR

1. Contract Work Hours Standards Act - Overtime Compensation.

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

- a. Overtime Requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek whichever is the greater number of over-time hours.