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act No. 614

ILLEGIB

This Contract is entered into as of June 20 1958 between the United States of America (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and [Redacted] **having its principal place of business at** [Redacted] **(hereinafter called "the Contractor").**

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WITNESSETH:

WHEREAS, the Contractor maintains facilities for research and development, and has available the services of qualified personnel; and,

WHEREAS, the Government desires the Contractor to conduct certain research and development work, and construct or produce whatever supplies, equipment, or reports may be hereinafter specified; and,

WHEREAS, the Contractor is willing to provide said facilities and qualified personnel and undertake such work on a cost-plus-a-fixed-fee basis as hereinafter specified;

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS .

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

(a) "Contracting Officer" means the person executing this Contract on behalf of the Government and his successors in office.

(b) "Director" means the present Director of the Agency and his successors in office.

(c) "Authorized Representative" means any person designated in writing as such by the Contracting Officer or the Director, and any such person can act hereunder only in the limited respects and to the extent specified in provisions of this contract wherein the term "Authorized Representative" is specifically used.

(d) "Clause" means the numbered Articles and unnumbered paragraphs of this contract and Task Orders.

ARTICLE 2. SCOPE OF WORK.

The Contractor shall supply the necessary qualified personnel, facilities, and materials, and shall use its best efforts to conduct the work specified in

NOTICE

This material contains information affecting the national defense of the United States within the meaning of the espionage laws, Title 18, USC, Secs. 793 and 794, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law.

~~SECRET~~
~~CONFIDENTIAL~~

RDTASK
January 1958

~~SECRET~~
CONFIDENTIAL

each Task Order issued to and accepted by the Contractor under this master contract in accordance with the specifications, schedules, and drawings stated in said Task Orders. The Contractor shall cooperate in consultation and otherwise as may be practicable with the Contracting Officer or his authorized representative upon the request of either. Technical Progress Reports, prepared in the manner normally practiced by the Contractor, shall be furnished the Contracting Officer at such intervals as may be indicated by the Task Order to which the report pertains. In addition, the Contractor shall prepare and furnish specifications and/or drawings on reproducible masters, and full information concerning the components, devices, apparatus and methods as provided for under each Task Order or as otherwise agreed to between the Contractor and the Contracting Officer or his authorized representative and shall deliver them, together with all models developed thereunder, to the Contracting Officer or his authorized representative. The Contractor shall maintain records in which descriptions and illustrations of any inventions made in this work shall be entered as they are made, with appropriate dates, signatures, and the names of witnesses.

ARTICLE 3. CHANGES.

The Contracting Officer may at any time, by a written order, and without notice to sureties, if any, make changes, within the general scope of Task Orders issued under this contract in any one or more of the following: (i) drawings, designs, or specifications, where the supplies or equipment to be furnished are to be specially developed or manufactured for the Government in accordance therewith; (ii) method of shipment or packing; (iii) place of delivery; and (iv) the amount of Government-furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of the Task Order, or otherwise affects any other provision of this contract or a Task Order hereunder, 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 or a Task Order as may be so affected, and the contract or Task Order shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within sixty (60) 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 a Task Order. 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, nothing in this clause shall excuse the Contractor from proceeding with the Task Order as changed.

ARTICLE 4. LIMITATION OF COST.

(a) It is estimated that the total cost to the Government, exclusive of any fixed fee, for the performance of any Task Order issued under this contract will not exceed the estimated cost set forth in such Task Order,

- 2 -

RD TASK
January 1958

CONFIDENTIAL

~~SECRET~~

~~SECRET~~
CONFIDENTIAL

and the Contractor agrees to use its best efforts to perform the work specified in each Task Order and all obligations under this contract within such estimated cost. If at any time the Contractor has reason to believe that the costs which it expects to incur in the performance of any Task Order in the next succeeding thirty (30) days, when added to all costs previously incurred, will exceed eighty-five percent (85%) of the estimated cost then set forth in the Task Order, or if at any time, the Contractor has reason to believe that the total cost to the Government, exclusive of any fixed fee, for the performance of any Task Order will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving its revised estimate of such total cost for the performance of the Task Order.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Task Order, and the Contractor shall not be obligated to continue performance under the Task Order or to incur costs in excess of the estimated cost set forth in the Task Order, 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 the Task Order. When and to the extent that the estimated cost set forth in the Task Order has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

ARTICLE 5. ALLOWABLE COST, FIXED FEE, AND PAYMENT.

(a) For the performance of each Task Order issued under this contract, the Government shall pay to the Contractor the cost thereof determined by the Contracting Officer to be allowable in accordance with Part 2 of Section XV of the Armed Services Procurement Regulation as in effect on the date of execution of said Task Order (hereinafter referred to as "Allowable Cost"), plus such fixed fee, if any, as may be provided for in the Task Order.

(b) Once each month (or at more frequent intervals, if 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 incurred by the Contractor in the performance of a Task Order and claimed to constitute Allowable Cost.

(c) As promptly as may be practicable after receipt of each invoice or voucher and statement of cost, the Government shall, except as hereinafter provided and subject to the provisions of paragraph (d) below, make payment thereon as approved by the Contracting Officer. There shall be withheld

- 3 -

RD TASK
January 1958

CONFIDENTIAL
~~SECRET~~

SECRET

from payment on each invoice or voucher an amount of ten percent (10%) of the cost reimbursement portion until a reserve of either ten percent (10%) of the cost of a Task Order or Five Thousand Dollars (\$5,000), whichever is less, shall have been set aside, such reserve or balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer:

(i) The final and satisfactory report listing all Subject Inventions as required by Article 18 (c) (iii).

(ii) Written disclosures for all Subject Inventions required by Article 18 (c) (i) which are shown to be due in accordance with interim reports delivered under Article 18 (c) (ii) or in accordance with such final reports or are otherwise known to be unreported.

(iii) The information as to any subcontractor required by Article 18 (g).

(iv) Satisfactory reports of royalties as required by Article 20 (a) or (b), provided that no amount shall continue to be withheld from payment if the Contracting Officer shall find that the Contractor has not been furnished a letter as required by Article 20 (c) within a reasonable time after making a written request to submit a single, consolidated report under the provisions of Article 20 (b).

(v) The satisfactory release discharging the Government as required by Article 5 (e).

(vi) The final inventory of all Government property as required by Article 7 (i).

The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any right accruing to the Government under the Task Order, nor shall this paragraph (c) be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provisions of a subcontract.

(d) At any time or times prior to final payment under any Task Order of this contract the Contracting Officer may cause to be made such audit of the invoices or vouchers and statements of cost as he shall deem necessary. Each payment theretofore made shall be subject to reduction to the extent of amounts included in the related invoice or voucher and statement of cost which are found by the Contracting Officer on the basis of such audit not to constitute Allowable Cost, and shall also be subject to reduction for overpayments or to increase for underpayments on preceding invoices or vouchers. On receipt of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and statement

- 4 -

RD TASK
January 1958

SECRET

SECRET

of cost, which shall be submitted by the Contractor as promptly as may be practicable following completion of the work under a Task Order but in no event later than one (1) year (or such longer period as the Contracting Officer may, in his discretion, approve in writing) from the date of such completion, and following compliance by the Contractor with all provisions of the Task Order and this contract (including, without limitation, provisions relating to patents, royalties, and the provisions of paragraphs (e) and (f) of this clause), the Government shall as promptly as may be practicable pay any balance of Allowable Cost.

(e) The Contractor and each assignee, if any, under an assignment entered into under this contract and in effect at the time of final payment under any Task Order shall execute and deliver at the time of and as a condition precedent to final payment under any Task Order, a release discharging the Government, its officers, agents and employees of and from all liabilities, obligations, and claims arising out of or under such Task Order, 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 the liabilities of the Contractor to third parties arising out of the performance of the Task Order, which are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) 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 the contract relating to patents.

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

- 5 -

RD TASK
January 1958

SECRET

SECRET

(g) Any cost 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 the Task Order, notwithstanding any provisions contained in the specifications or other documents incorporated in the Task Order by reference, designating services to be performed or materials to be furnished by the Contractor at its expense or without cost to the Government.

(h) Payment of the fixed fee shall be made to the Contractor as provided in the Task Order.

ARTICLE 6. RECORDS.

(a) (1) The Contractor agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of any Task Order issued under this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of the Task Order and this contract. The Contractor's accounting procedures and practices shall be subject to the approval of the Contracting Officer; provided, however, that no material change will be required to be made in the Contractor's accounting procedures and practices if they conform to generally accepted accounting practices and if the costs properly applicable to this contract are readily ascertainable therefrom.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by the Comptroller of the contracting Government Agency or his authorized representatives.

(3) In the event the Comptroller of the contracting Government Agency or his authorized representative determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within two years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer such documentary evidence in support of transportation costs as may be required by the Comptroller of the contracting Government Agency or his authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available its records for a period of six years (unless a longer

SECRET

SECRET

period of time is provided by applicable statute) from the date of the voucher or invoice submitted by the Contractor after the completion of the work under any Task Order and designated by the Contractor as the "completion voucher" or "completion invoice" or, in the event a Task Order under this contract has been completely terminated, from the date of the termination settlement agreement; provided, however, that records which relate to (A) appeals under the clause of this contract entitled "Disputes", (B) litigation or the settlement of claims arising out of the performance of a Task Order under this contract, or (C) costs or expenses of a Task Order under this contract as to which exception has been taken by the Comptroller of the contracting Government Agency or his authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims or exceptions have been disposed of, but in no event for less than the six year period mentioned above.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in the proviso of subparagraph (4) above, the Contractor may in fulfillment of its obligation to retain its records as required by this clause substitute photographs, microphotographs or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller of the contracting Government Agency or his authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor-hour basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a) (6) above, a provision to the effect that the subcontractor agrees that the Comptroller of the contracting Government Agency or his 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. The term "subcontract", as used in this paragraph (b) only, excludes (i) purchase orders not exceeding \$1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

ARTICLE 7. GOVERNMENT PROPERTY.

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of Task Orders issued under this contract, the property described in a Task Order or specifications, together with such related data and

SECRET

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 a Task Order are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times stated in the Task Order 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 occasioned the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes". In the event that 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 at the Government's expense or otherwise dispose of the property or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon written request of the Contractor shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision affected by the return or disposition, or the repair or modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to 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) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under a Task Order, 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 reimbursable to the Contractor under a Task Order shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of a Task Order, or (ii) commencement of processing or use of such property in the performance of a Task Order, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs. All Government-furnished Property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government Property."

(c) Title to the 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

- 8 -

RD TASK
January 1958

SECRET

SECRET

identify as personalty by reason of affixation to any realty. The Contractor shall maintain adequate property control records of the Government Property and shall identify the Government Property as such in accordance with the requirements of the "Manual for Control of Government Property in Possession of Contractors" (Appendix B, Armed Services Procurement Regulation), as in effect on the date of the Task Order, which Manual is hereby incorporated by reference and made a part of this contract.

(d) The Government Property provided or furnished pursuant to the terms of this contract and Task Orders issued hereunder shall, unless otherwise provided herein, be used only for the performance of the Task Order for which the Government Property has been provided or furnished.

(e) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program, for the maintenance, repair, protection and preservation of Government Property so as to assure its full availability and usefulness for the performance of the Task Order. 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.

(f) (i) 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) (A) 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 its managers, superintendents, or other equivalent representatives, who has supervision or direction of (I) all or substantially all of the Contractor's business, or (II) all or substantially all of the Contractor's operations at any one plant or separate location in which the Task Order is being performed, or (III) a separate and complete major industrial operation in connection with the performance of the Task Order; or (B) 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 its directors, officers, or other representatives mentioned in subparagraph (A) above, (I) to maintain and administer, in accordance with sound industrial practice, the program for maintenance, repair, protection and preservation of Government Property as required by paragraph (e) hereof, or (II) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (e) hereof; or (C) for which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Task Order; or (D) which results from a risk expressly required to be insured under 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;

- 9 -

RDTASK
January 1958

SECRET

SECRET

or (E) which results from a risk which is in fact covered by insurance of for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement; provided that, 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. This clause shall not be construed as relieving a subcontractor from liability for loss or destruction of or damage to Government Property in its possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, may provide for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government Property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(ii) 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 Government may have required the Contractor to carry such insurance under any other provision of this contract or a Task Order hereunder.

(iii) 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 (A) the lost, destroyed and damaged Government Property, (B) the time and origin of the loss, destruction or damage, (C) all known interests in commingled property of which the Government Property is a part, and (D) 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.

(iv) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government Property, it 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 Task Order, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government'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 Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition,

- 10 -

RD TASK
January 1958

SECRET

SECRET

where the subcontractor has not been relieved from liability for any loss or destruction of or damage to Government Property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government Property for the benefit of the Government.

(g) The Government shall at all reasonable times have access to the premises where any of the Government Property is located.

(h) The Government Property shall remain in the possession of the Contractor for such period of time as is required for the performance of the Task Order unless the Contracting Officer determines that the interests of the Government require removal of such property. In such case the Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of Government Property. In any such instance, the Task Order may be amended to accomplish an equitable adjustment in the terms and provisions thereof.

(i) Upon the completion of a Task Order, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit to the Contracting Officer in a form acceptable to him, inventory schedules covering all items of the Government Property not consumed in the performance of this contract, or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government Property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by the Task Order or shall be paid in such manner as the Contracting Officer may direct. The foregoing provisions shall apply to scrap from Government Property provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account therefor as a part of general overhead or other reimbursable cost in accordance with the Contractor's established accounting procedures.

(j) Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's plant or any portion thereof which is affected by the removal of any Government Property.

(k) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

ARTICLE 8. INSURANCE-LIABILITY TO THIRD PERSONS.

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under Task Orders, and such other insurance as the Contracting Officer may from time to time require with respect to

SECRET

SECRET

performance under Task Orders; provided, that the Contractor in fulfillment of its obligation to procure workmen's compensation insurance may, with the approval of the Contracting Officer and pursuant to statutory authority, maintain a self-insurance program. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time, as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of Task Orders and for which the Contractor seeks reimbursement thereunder.

(c) The Contractor shall be reimbursed: (i) for the portion allocable to a Task Order of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (ii) for liabilities to third persons for loss of or damage to property (other than property (A) owned, occupied or used by the Contractor or rented to the Contractor or (B) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of Task Orders, whether or not caused by the negligence of the Contractor, its agents, servants or employees, provided such liabilities are represented by final judgments or by settlements approved in writing by the Government, and expenses incidental to such liabilities, except liabilities (I) for which the Contractor is otherwise responsible under express terms of the clause or clauses, if any, specified in the Schedule or Task Order, or (II) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer or (III) 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 its managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which the Task Order is being performed, or (3) a separate and complete major industrial operation in connection with the performance of the Task Order. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of the Task Order, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause, provided such cost would constitute Allowable Cost under the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment."

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of a Task Order, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor

- 12 -

RD TASK
January 1958

SECRET

SECRET

shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith: Provided, however, that the Contractor may, at its own expense, be associated with the representative of the Government in the settlement or defense of any such claim or litigation.

ARTICLE 9. SUPERSEDING SPECIFICATIONS.

All references in any Government specification incorporated herein to other Government specifications shall be deemed to include all specifications supplementary to or superseding the specifications so referred to, to the extent that such supplementary or superseding specifications are in effect at the date of Contractor's latest quotation, if the Contractor was furnished or otherwise notified of the existence of such supplementary or superseding specification at the time of said quotation.

ARTICLE 10. SHIPMENTS.

(a) Mode of Shipment. Unless otherwise provided in a Task Order or unless the Contracting Officer, acting under the "Changes" clause of this contract directs otherwise in writing, all supplies or equipment to be furnished under a Task Order shall be delivered to the Government F.O.B. destination at which such supplies or equipment are to be finally inspected.

(b) F. O. B. Destination. Whenever it is provided in a Task Order that supplies or equipment shall be delivered F.O.B. specified destinations, such items shall be shipped direct by the Contractor to the specified destinations on commercial bills of lading.

(c) Shipping Instructions. If not specified in a Task Order, names of consignees of all supplies or equipment to be delivered by the Contractor hereunder will be furnished to the Contractor in writing by the Contracting Officer at a later date. Request therefor shall be made to the Contracting Officer not later than thirty (30) days prior to the date on which any of the articles are ready for shipment.

ARTICLE 11. DELAY IN DELIVERY OF DATA.

(a) It is understood that the efficient use by the Government of the supplies or equipment called for under Task Orders requires that the data called for thereunder be delivered not later than the time or respective times therein specified. If such data are not delivered at said time or times, the Government may, at its election, so long as such data remain undelivered, unless the delay

SECRET

SECRET

in delivery thereof arises out of causes beyond the control and without the fault or negligence of the Contractor within the meaning of the clause hereof entitled "Excusable Delays", withhold payment to the Contractor for any of the amounts then due, refuse approval of the Contractor's vouchers, refuse to accept further deliveries thereunder from the Contractor, or take any other action authorized by law or regulation now in effect including termination of the Task Order for default to the extent and in the manner authorized by the clause entitled "Termination" and may take any or all of the foregoing actions separately or in combination.

(b) The provisions of section (a) of this clause shall be applicable only to technical data, such as drawings, specifications, handbooks, service manuals, or other information necessary for the proper maintenance or servicing of the end items called for under a Task Order.

ARTICLE 12. INSPECTION AND CORRECTION OF DEFECTS.

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to final acceptance. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies, fabricating methods, and special tooling under Task Orders. The Government, through any authorized representative may inspect the plant or plants of the Contractor or of any of its subcontractors engaged in the performance of a Task Order. If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as otherwise provided in this contract or a Task Order hereunder, final acceptance of any supplies or lots of supplies shall be made as promptly as practicable after delivery thereof and shall be deemed to have been made no later than sixty (60) days after the date of such delivery, if final acceptance has not been made earlier within such period.

(b) The Contractor warrants that the services rendered in the performance of Task Orders under this contract will conform to the requirements thereof and to high professional standards in the field, and that any article delivered to the Government under Task Orders under this contract will conform to the requirements thereof and will not be defective in material or workmanship.

(c) At any time during performance of a Task Order, but not later than six (6) months (or such other period as may be provided in the Task Order) after final acceptance of the supplies or lots of supplies last delivered in accordance with the requirements thereof, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, any supplies or lots of supplies which at the time of delivery thereof are defective in material or workmanship or otherwise not in conformity with the requirements of this contract and Task Orders thereunder. Except as

- 14 -

RD TASK
January 1958

SECRET

SECRET

otherwise provided in paragraph (d) hereof, the cost of any such replacement or correction shall be included in Allowable Cost determined as provided in the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment", but no additional fee shall be payable with respect thereto. Such supplies or lots of supplies shall not be tendered again for acceptance unless the former tender and the requirement of correction is disclosed. If the Contractor fails to proceed with reasonable promptness to replace or correct such supplies or lots of supplies, the Government (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor any increased cost occasioned the Government thereby, or may reduce any fixed fee payable under a Task Order (or require repayment of any fixed fee theretofore paid) or (ii) in the case of supplies not delivered may require the delivery of such supplies, and shall have the right to reduce any fixed fee payable (or to require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (iii) may terminate the Task Order for default as provided in the clause of this contract entitled "Termination". Failure to agree to the amount of any such increased cost to be charged to the Contractor or to such reduction in, or repayment of, the fixed fee shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".

(d) Notwithstanding the provisions of paragraph (c) hereof, the Government may at any time require the correction or replacement by the Contractor, without cost to the Government, of supplies or lots of supplies which are defective in material or workmanship, or otherwise not in conformity with the requirements of this contract or a Task Order hereunder, if such defects or failures are due to fraud, lack of good faith or willful misconduct on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the Contractor's business, or (ii) all or substantially all of the Contractor's operations at any one plant or separate location in which the Task Order is being performed, or (iii) a separate and complete major industrial operation in connection with the performance of the Task Order. Fraud, lack of good faith or willful misconduct on the part of any of such supervisory personnel shall be deemed to include the selection of individual employees or the retention of employees after any of such supervisory personnel has reason to believe that such employees are habitually careless or otherwise unqualified.

(e) Corrected supplies or replaced supplies shall be subject to the provisions of this clause in the same manner and to the same extent as supplies originally delivered under a Task Order of this contract.

(f) The contractor shall make its records of all inspection work available to the Government during the performance of Task Orders under this contract and for such longer period as may be specified therein.

- 15 -

RD TASK
January 1958

SECRET

SECRET

(g) Except as provided in this clause and as may be provided in a Task Order, the Contractor shall have no obligation or liability to correct or replace supplies or lots of supplies which at the time of delivery are defective in material or workmanship or otherwise not in conformity with the requirements of this contract or a Task Order hereunder.

(h) Except as otherwise provided in the Task Order, the Contractor's obligation to correct or replace Government-furnished property (which is property in the possession of or acquired directly by the Government and delivered or otherwise made available to the contractor) shall be governed by the provisions of the clause of this contract entitled "Government Property."

ARTICLE 13. SUBCONTRACTS.

(a) The Contractor shall give advance notification to the Contracting Officer of any proposed subcontract hereunder which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total estimated cost of a Task Order under this contract.

(b) The Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total estimated cost of a Task Order under this contract, or (iii) provides for the fabrication, purchase, rental, installation or other acquisition, of any item of industrial facilities, or of special tooling having a value in excess of \$1,000, or (iv) is on a time-and-material or labor-hour basis. 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 (b).

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

(d) 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 a Task Order, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

- 16 -

RD TASK
January 1958

SECRET

SECRET

(e) 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 and Task Orders thereunder with respect to which the Contractor may be entitled to reimbursement from the Government.

(f) The Contractor shall obtain the written prior approval of the Contracting Officer regarding the utilization of outside consultants in the performance of Task Orders under this contract.

ARTICLE 14. UTILIZATION OF SMALL BUSINESS CONCERNS.

(a) It is the policy of the Government as declared by the Congress to bring about the greatest utilization of small business concerns which is consistent with efficient production.

(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 Task Orders under this contract.

ARTICLE 15. NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT.

The provisions of this clause shall be applicable only if the amount of a Task Order under this contract is in excess of \$5,000.

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

(b) In the event of litigation against the Government on account of any claim of patent infringement arising out of the performance of a Task Order under this contract or out of the use of any supplies furnished or work or services performed thereunder, the Contractor shall furnish to the Government, upon request, all evidence and information in possession of the Contractor pertaining to such litigation. Such evidence and information shall be furnished at the expense of the Government except in those cases in which the Contractor has agreed to indemnify the Government against the claim being asserted.

ARTICLE 16. AUTHORIZATION AND CONSENT.

The Government hereby gives its authorization and consent for all use and manufacture of any patented invention in the performance of Task Orders under this contract or any part thereof or any amendment thereto or any subcontract thereunder (including any lower-tier subcontract).

SECRET

SECRET

ARTICLE 17. FILING OF PATENT APPLICATIONS.

(a) Before filing or causing to be filed a patent application disclosing any subject matter of this contract and Task Orders thereunder, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U. S. Code 181-188 or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the U. S. Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application disclosing any subject matter of this contract and Task Orders thereunder, which subject matter is classified "Confidential", a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should otherwise be delayed under pertinent statutes or regulations.

(c) In filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter.

ARTICLE 18. PATENT RIGHTS.

(a) As used in this clause, the following terms shall have the meanings set forth below:

(i) The term "Subject Invention" means any invention, improvement, or discovery (whether or not patentable) conceived or first actually reduced to practice either (A) in the performance of the experimental, developmental, or research work called for or required under this contract and Task Orders thereunder, or (B) in the performance of any experimental, developmental, or research work relating to the subject matter of this contract and Task Orders thereunder which was done upon an understanding in writing that a contract would be awarded; provided that the term "Subject Invention" shall not include any invention which is specifically identified and listed in the Task Order for the purpose of excluding it from the license granted by this clause.

- 18 -

RD TASK
January 1958

SECRET

SECRET

(ii) The term "Technical Personnel" means any person employed by or working under contract with the Contractor (other than a subcontractor whose responsibilities with respect to rights accruing to the Government in inventions arising under subcontracts are set forth in paragraphs (f), (g), and (h) below) who, by reason of the nature of his duties in connection with the performance of a Task Order, would reasonably be expected to make inventions.

(iii) The terms "subcontract" and "subcontractor" mean any subcontract or subcontractor of the Contractor, and any lower-tier subcontract or subcontractor under a Task Order.

(b) (1) The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, nontransferable, and royalty-free license to practice, and cause to be practiced by or for the United States Government, throughout the world, each Subject Invention in the manufacture, use and disposition according to law, of any article or material, and in the use of any method. No license granted herein shall convey any right to the Government to manufacture, have manufactured, or use any Subject Invention for the purpose of providing services or supplies to the general public in competition with the Contractor or the Contractor's commercial licensees in the licensed fields.

(2) With respect to:

(i) any subject Invention made by other than Technical Personnel;

(ii) any Subject Invention conceived prior to, but first actually reduced to practice in the course of, any of the experimental, developmental, or research work specified in (a) (i) above; and

(iii) the practice of any Subject Invention in foreign countries; the obligation of the Contractor to grant a license as provided in (b) (1) above, to convey title as provided in (d)(ii)(B) or (d)(iv) below, and to convey foreign rights as provided in (e) below, shall be limited to the extent of the Contractor's right to grant the same without incurring any obligation to pay royalties or other compensation to others solely on account of said grant. Nothing contained in this Patent Rights clause shall be deemed to grant any license under any invention other than a Subject Invention.

(c) The Contractor shall furnish to the Contracting Officer the following information and reports concerning Subject Inventions which reasonably appear to be patentable:

(i) a written disclosure promptly after conception or first actual reduction to practice of each such Invention together with a written statement specifying whether or not a United States patent application claiming the Invention has been or will be filed by or on behalf of the Contractor;

- 19 -

RD TASK
January 1958

SECRET

SECRET

(ii) interim reports, at least every twelve months, commencing with the date of this contract, each listing all such Inventions conceived or first actually reduced to practice more than three months prior to the date of the report, and not listed on a prior interim report, or certifying that there are no such unreported Inventions; and

(iii) prior to final settlement of a Task Order under this contract, a final report listing all such Inventions including all those previously listed in interim reports.

(d) In connection with each Subject Invention referred to in (c)(1) above, the Contractor shall do the following:

(i) if the Contractor specifies that a United States patent application claiming such Invention will be filed, the Contractor shall file or cause to be filed such application in due form and time; however, if the Contractor, after having specified that such an application would be filed, decides not to file or cause to be filed said application, the Contractor shall so notify the Contracting Officer at the earliest practicable date and in any event not later than eight months after first publication, public use or sale.

(ii) if the Contractor specifies that a United States patent application claiming such Invention has not been filed and will not be filed (or having specified that such an application will be filed thereafter notifies the Contracting Officer to the contrary), the Contractor shall:

(A) inform the Contracting Officer in writing at the earliest practicable date of any publication of such Invention made by or known to the Contractor or, where applicable, of any contemplated publication by the Contractor, stating the date and identity of such publication or contemplated publication; and

(B) convey to the Government the Contractor's entire right, title, and interest in such Invention by delivering to the Contracting Officer upon written request such duly executed instruments (prepared by the Government) of assignment and application, and such other papers as are deemed necessary to vest in the Government the Contractor's right, title, and interest aforesaid, and the right to apply for

- 20 -

RD TASK
January 1958

SECRET

SECRET

and prosecute patent applications covering such Invention throughout the world, subject, however, to the right of the Contractor specified in (e) below to file foreign applications, and subject further to the reservation of a non-exclusive and royalty-free license to the Contractor (and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part) which license shall be assignable to the successor of that part of the Contractor's business to which such Invention pertains;

(iii) the Contractor shall furnish promptly to the Contracting Officer on request an irrevocable power of attorney to inspect and make copies of each United States patent application filed by or on behalf of the Contractor covering any such Invention;

(iv) In the event the Contractor, or those other than the Government deriving rights from the Contractor, elects not to continue prosecution of any such United States patent application filed by or on behalf of the Contractor, the Contractor shall so notify the Contracting Officer not less than sixty days before the expiration of the response period and, upon written request, deliver to the Contracting Officer such duly executed instruments (prepared by the Government) as are deemed necessary to vest in the Government the Contractor's entire right, title, and interest in such Invention and the application, subject to the reservation as specified in (d)(ii) above; and

(v) the Contractor shall deliver to the Contracting Officer duly executed instruments fully confirmatory of any license rights herein agreed to be granted to the Government.

(e) The Contractor, or those other than the Government deriving rights from the Contractor, shall have the exclusive rights to file applications on Subject Inventions in each foreign country within:

(i) nine months from the date a corresponding United States application is filed;

(ii) six months from the date permission is granted to file foreign applications where such filing has been prohibited for security reasons; or

(iii) such longer period as may be approved by the Contracting Officer. The Contractor shall, upon written request of the Contracting Officer, convey to the Government the Contractor's

- 21 -

RD TASK
January 1958

SECRET

SECRET

entire right, title, and interest in each Subject Invention in each foreign country in which an application has not been filed within the time above specified, subject to the reservation of a non-exclusive and royalty-free license to the Contractor together with the right of the Contractor to grant sublicenses, which license and right shall be assignable to the successor of that part of the Contractor's business to which the Subject Invention pertains.

(f) The Contractor shall exert all reasonable effort in negotiating for the inclusion of this Patent Rights clause in any subcontract under a Task Order of three thousand dollars (\$3,000) or more having experimental, developmental, or research work as one of its purposes. In the event of refusal by a subcontractor to accept the Patent Rights clause, the Contractor shall not proceed with the subcontract without written authorization of the Contracting Officer, and upon obtaining such authorization, shall cooperate with the Government in the negotiation with such subcontractor of an acceptable patent rights clause; provided, however, that the Contractor shall in any event require the subcontractor to grant to the Government patent rights under Subject Inventions of no less scope and on no less favorable terms than those which the Contractor has under such subcontracts, except that in no event shall the subcontractor be required to grant to the Government patent rights in excess of those herein agreed to be granted to the Government by the Contractor.

(g) The Contractor shall, at the earliest practicable date, notify the Contracting Officer in writing of any subcontract containing a patent rights clause, furnish the Contracting Officer a copy of such clause, and notify the Contracting Officer when such subcontract is completed. It is understood that with respect to such subcontract clause, the Government is a third party beneficiary; and the Contractor hereby assigns to the Government all rights that the Contractor would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to Subject Inventions.

(h) When the Contractor shows that it has been delayed in the performance of a Task Order by reason of its inability to obtain in accordance with (f) above a suitable patent rights clause from a qualified subcontractor for any item or service required under a Task Order for which the Contractor itself does not have available facilities or qualified personnel, the Contractor's delivery dates shall be extended for a period of time equal to the duration of such delay; and, upon request of the Contractor, the Contracting Officer shall determine to

- 22

RD TASK
January 1958

SECRET

SECRET

what extent, if any, an additional extension of the delivery dates and an increase in contract prices based upon additional costs incurred by such delay are proper under the circumstances; and the Task Order shall be modified accordingly. If the Contractor, after exerting all reasonable effort, is unable to obtain a qualified subcontractor as set forth above, the Contractor may submit to the Contracting Officer a written request for waiver or modification of the requirement that a suitable patent rights clause be included in the subcontract. Such request shall specifically state that the Contractor has used all reasonable effort to obtain such qualified subcontractor, and shall cite the waiver or termination provision hereinafter set forth. If, within thirty-five (35) days after the date of receipt of such request for a waiver or modification of said requirement, the Contracting Officer shall fail to deny in writing such request, the requirement shall be deemed to have been waived by the Government. If within such period the Contractor shall receive a written denial of such request by the Contracting Officer, the Task Order shall thereupon automatically terminate and the rights and obligations of the parties shall be governed by the provisions of the clause of this contract providing for termination for the convenience of the Government.

ARTICLE 19. RIGHTS IN DATA -- LIMITED.

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under Task Orders of this contract. The term does not include financial reports, cost analyses and other information incidental to contract administration.

(b) Subject Data delivered under a Task Order shall not be released outside the Government, nor be duplicated, used, or disclosed in whole or in part for procurement or manufacturing purposes (other than for manufacture required in connection with repair or overhaul where an item is not procurable commercially so as to enable the timely performance of the overhaul or repair work and provided that when Data is released by the Government to a contractor for such purposes, the release shall be made subject to the limitation of this clause and provided further that such Data shall not be used for manufacture or procurement of spare parts for stock), without permission of the Contractor, if: (i) the Subject Data to be so limited is identified in the Task Order as being subject to limitations; and (ii) the following legend is marked on each piece of data so limited (In third blank of legend, identify portion or pages to which legend is applicable):

- 23 -

RD TASK
January 1958

SECRET

SECRET

This _____ is furnished under U. S. Government Contract No. _____, Task Order No. _____, and _____ shall not be released outside the Government (except to foreign governments, subject to these same limitations), nor be disclosed, used, or duplicated, for procurement or manufacturing purposes, except as otherwise authorized by said contract, without the permission of _____. This legend shall be marked on any reproduction hereof in whole or in part.

provided that such Data may be delivered to foreign governments as the national interest of the United States may require, subject to the limitations specified in this paragraph. The Contractor shall not impose limitations on the use of any piece of Data, or any portion thereof, containing information first produced in the performance of a government contract.

(c) Notwithstanding any provisions of this contract or a Task Order concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate or ignore any marking not authorized by the terms of this contract or Task Order on any piece of Subject Data furnished under a Task Order, subject to the right of the Contractor to appeal under the "Disputes" clause from the decision of the Contracting Officer.

(d) Subject to the proviso in (e) below, the Government may duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all Subject Data not covered by (b) above which is delivered under a Task Order.

(e) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, non-exclusive and irrevocable license throughout the world, to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all Subject Data now or hereafter covered by copyright; provided that with respect to such Subject Data not originated in the performance of a Task Order under this contract but which is incorporated in the work furnished under a Task Order such license shall be only to the extent that the Contractor, its employees, or any individual or concern specifically employed or assigned by the Contractor to originate and prepare such Data under a Task Order, now has, or prior to completion or final settlement of Task Order may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(f) The Contractor shall exert all reasonable effort to advise the Contracting Officer, at the time of delivery of the Subject Data furnished under

- 24 -

RD TASK
January 1958

SECRET

SECRET

a Task Order, of all invasions of the right of privacy contained therein and of all portions of such Data copied from work not composed or produced in the performance of a Task Order and not licensed under this clause.

(g) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Subject Data delivered under a Task Order.

(h) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent. Nothing contained in this clause shall be construed as prohibiting the Government from manufacturing, or having manufactured for it by or procuring from others than the Contractor, that which is shown in or by such Data, so long as the Data, or a copy in whole or in part, to which the limitation in (b) above applies, is not used in such manufacture or procurement.

ARTICLE 20. REPORTING OF ROYALTIES.

The provisions of this clause shall be applicable only if the amount of a Task Order is in excess of \$50,000.

(a) The Contractor shall report satisfactorily in writing (in quadruplicate) to the Contracting Officer as soon as practicable after execution of a Task Order under this contract whether or not any royalties in excess of \$250 have been paid or are to be paid by the Contractor directly to any person or firm in connection with the performance of the Task Order. If royalties in excess of \$250 have been paid or are to be paid to any person or firm, the report shall include the following items of information with respect to such royalties (including the initial \$250):

(1) The name and address of each licensor to whom royalties in excess of \$250 have been paid or are to be paid,

(2) The patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties,

(3) The manner of computing the royalties consisting of (i) a brief identification of each royalty-bearing unit or process, (ii) the total amount of royalties, and (iii) the percentage rate or dollars and cents amount of royalties on each such unit or process; provided that if the royalties cannot be computed in terms of units or dollars and cents value, then other data showing the manner in which the Contractor computes the royalties.

- 25 -

RD TASK
January 1958

SECRET

SECRET

(b) In lieu of furnishing a report under paragraph (a), the Contractor may furnish a single, consolidated report for each accounting period of the Contractor during which the Contractor has contracts with the Government, provided the Contractor has requested and obtained the prior written approval of the Contracting Officer. A satisfactory consolidated report shall be furnished, when the furnishing thereof has been approved, in the number of copies as approved, as soon as practicable after the close of the accounting period covered by the report. Such consolidated report shall be made in accordance with Contractor's established accounting practice and shall include, for the accounting period, the total amount of royalties accruing to each licensor at a rate in excess of \$1,000 per annum on the Contractor's over-all business, together with (i) the name and address of each such licensor, (ii) the patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties, (iii) a brief description of the subject matter of the license under which royalties are charged, (iv) the percentage rate or unit amount, or if the royalties do not accrue by rate or unit amount, such other data showing the manner by which the royalties accrue to licensor, and (v) an estimate or approximation (without detailed accounting) of the portion of such royalties that may be attributable to Government contracts.

(c) In the event that the Contractor requests written approval to furnish consolidated reports under paragraph (b) above, the Contracting Officer shall promptly consider the request and furnish to the Contractor a letter stating whether or not the request is approved and, notwithstanding any such approval, the Contracting Officer shall have the right to question any such subsequently furnished report as to accuracy or completeness of data and to ask for additional information.

ARTICLE 21. ASSIGNMENT OF RIGHTS.

No assignment of any of the Contractor's rights under this contract or Task Orders hereunder may be made, and the Assignment of Claims Act of 1940 as amended (31 U.S. Code 203, 41 U.S. Code 15) shall not be invoked by the Contractor.

ARTICLE 22. EXCUSABLE DELAYS.

(a) The Contractor shall not be in default by reason of any failure in performance of Task Orders under this contract in accordance with the terms thereof (including any failure by the Contractor to make progress in the prosecution of the work thereunder 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 include, but are not restricted

- 26 -

RD TASK
January 1958

SECRET

SECRET

to: acts of God or of the public enemy; acts of the Government; fires; floods; epidemics; quarantine restrictions; strikes; freight embargoes; unusually severe weather; and failure of subcontractors to perform or make progress due to such causes, unless the Contracting Officer shall have determined that the supplies or services to be furnished under the subcontract were obtainable from other sources and shall have ordered the Contractor in writing to procure such services or supplies from such other sources, and the Contractor shall have failed reasonably to comply 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 such failure 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".

(b) If the Contractor becomes unable to complete the contract work and make delivery at the time specified in the Schedule because of technical difficulties, notwithstanding the exercise of good faith and diligent efforts in the performance of the work called for hereunder, it may give the Contracting Officer written notice of the anticipated default with reasons therefor. Such notice and reasons shall be delivered not less than forty-five (45) days before the completion date specified in the Schedule or within such time as the Contracting Officer deems sufficient. If such notice is duly given, then to the extent the interest of the Government makes an extension desirable the Contracting Officer may, in his discretion, extend the period of time specified in the Schedule for such period as he deems advisable, and this contract shall then be modified in writing accordingly.

ARTICLE 23. BUY AMERICAN ACT.

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

- 27 -

RD TASK
January 1958

SECRET

SECRET

which the supplies to be delivered under a Task Order are manufactured, as are of a class or kind determined by the Director or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality: Provided, that this exception (iv) shall not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

ARTICLE 24. EIGHT HOUR LAW OF 1912.

This contract and Task Orders hereunder, to the extent that is of a character specified in the Eight-Hour Law of 1912 as amended (40 U.S. Code 324-326) and is not covered by the Walsh-Healey Public Contracts Act (41 U.S. Code 35-45), is subject to the following provisions and exceptions of said Eight-Hour Law of 1912 as amended, and to all other provisions and exceptions of said Law:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor or any subcontractor contracting for any part of the said work, shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every such laborer and mechanic employed by the Contractor or any subcontractor engaged in the performance of this contract shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed upon the Contractor for each such laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this clause; and all penalties thus imposed shall be withheld for the use and benefit of the Government.

ARTICLE 25. NONDISCRIMINATION IN EMPLOYMENT.

(a) In connection with the performance of work under Task Orders under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms

- 28 -

RD TASK
January 1958

SECRET

SECRET

of compensation; and selection for training, including apprenticeship. The contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of the nondiscrimination clause.

(b) The Contractor further agrees to insert the foregoing provision in all subcontracts under Task Orders hereunder, except subcontracts for standard commercial supplies or raw materials.

ARTICLE 26. CONVICT LABOR.

In connection with the performance of work under Task Orders under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

ARTICLE 27. NOTICE TO THE GOVERNMENT OF LABOR DISPUTES.

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

ARTICLE 28. WALSH-HEALEY PUBLIC CONTRACTS ACT.

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

ARTICLE 29. COVENANT AGAINST CONTINGENT FEES.

The Contractor warrants that no person or selling agency has been or will be employed or retained to solicit or secure this contract or Task Orders thereunder upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except 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 and Task Orders thereunder without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

- 29 -

RD TASK
January 1958

SECRET

SECRET

ARTICLE 30. OFFICIALS NOT TO BENEFIT.

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

ARTICLE 31. GRATUITIES.

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract and Task Orders hereunder if it is found, after notice and hearing, by the Director or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Director or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event a Task Order under this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Director or his duly authorized representative) which shall be not less than 3 nor more than 10 times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE 32. DISPUTES.

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract or Task Orders hereunder which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Director, and the decision

RD TASK
January 1958

SECRET

SECRET

of the Director or his duly authorized representative for the hearing of such appeals shall, 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, be final and conclusive; provided that, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Task Order and in accordance with the Contracting Officer's decision.

ARTICLE 33. SECURITY.

(a) Disclosure of Information. It is understood that disclosure of information relating to the work contracted for hereunder, to any person not entitled to receive it, or failure to safeguard all Secret and Confidential matter that may come to the Contractor or any person under his control in connection with the work contracted for hereunder, may subject the Contractor, his agents, employees and subcontractors to criminal liability under the laws of the United States (18 U.S. Code 793, 794, 798). The provisions of the "Security Requirements for Contractors" and of the "Contractor's Security Agreement", copies of which have been furnished to the Contractor, are incorporated herein by reference.

(b) Subcontractors. The Contractor, when it is deemed necessary to disclose classified information to a subcontractor to accomplish the purposes of this contract and Task Orders hereunder, will request permission of the Contracting Officer prior to such disclosure. Upon the granting of permission, the Contractor shall cause to be inserted in all subcontracts under Task Orders under this contract a provision similar to (a) above.

(c) Aliens. Except with the prior written consent of the Director or his duly authorized representative, the Contractor shall not permit any alien to have access to classified security information.

ARTICLE 34. TERMINATION.

The performance of work under Task Orders under this contract may be terminated by the Government in whole or from time to time in part by giving the Contractor notice in writing. Upon receipt of such notice from the Government, the Contractor shall exercise all reasonable diligence to obtain the cancellation of its outstanding commitments thereunder running

- 31 -

RD TASK
January 1958

SECRET

SECRET

beyond such termination date. The Contractor may be reimbursed for reasonable termination charges. APPENDIX I, entitled "Termination", is hereby made a part of this agreement by reference and attachment hereto and its detailed provisions shall govern this contract and Task Orders hereunder.

ARTICLE 35. ALTERATIONS.

The following alterations and/or additions were made in the provisions of this contract prior to signature.

- 31 a

RD TASK
January 1958

SECRET

SECRET

Contract No. 614

SCHEDULE

Each article in this schedule has been numbered to correspond with the article in the contract which it implements.

A. ARTICLE 2. SCOPE OF SUBJECT WORK. The work to be performed under this contract shall be set forth in Task Orders as issued from time to time and said Task Orders shall be for work and services for which the Contractor has submitted proposals. In the event a Task Order issued hereunder is not considered acceptable by the Contractor, the Contractor shall advise the Contracting Officer as to the objections thereto within fourteen (14) days after receipt of the Task Order or at a later time, if requested by the Contractor and approved by the Contracting Officer. When applicable, the Contracting Officer will advise the Contractor in the Task Orders or elsewhere in writing of priority ratings established for the Task Orders and such priority or priorities may be revised by the Contracting Officer in accordance with the best interests of the Government.

B. ARTICLE 4. LIMITATION OF COST. The estimated cost of the performance of any Task Order issued hereunder will be set forth in the said Task Order.

C. ARTICLE 5. ALLOWABLE COST, FIXED FEE, AND PAYMENT.

(1) The fixed fee applicable to each Task Order issued hereunder shall be computed at ~~seven~~ percent () of the estimated cost authorized by the said Task Order and shall be stated therein. No additional fixed fee in excess of the amount initially established in the Task Order shall be paid the Contractor unless authorized by a written supplement to the Task Order increasing the scope of performance and the amount of the fixed fee to be paid thereunder. For the purpose of accomplishing progress payments on the fixed fee, each billing for allowable costs shall have added thereto a sum equal to ~~seven~~ percent () of the amount billed subject to the provisions of Article 5(c) of the contract.

(2) In determining the cost of performing the Task Orders pursuant to the provisions of Article 5 of the Contract, it is understood and agreed without limiting the generality of Part 2, Section XV, Armed Services Procurement Regulation that the allowable costs of the performance of this contract shall include the necessary cost of the direct items described in subparagraphs (a) through (d) below, when incurred by the Contractor and

- 32 -

RD TASK
January 1958

SECRET

SECRET

accepted as such costs by the Government. Furthermore there shall be allowed an amount for overhead and general administrative expenses determined in accordance with the following stipulations:

Overhead. The amount of indirect charges allowable under this contract shall be determined by applying negotiated rates to agreed upon bases as specified below:

i. The rates and bases used hereunder shall be the result of negotiations between the Contractor and the Government upon the basis of the actual cost experience of the Contractor for the period covered. As soon as possible but not later than 90 days after the expiration of each overhead period to be recognized herein, the Contractor shall submit to the Contracting Officer a proposed final overhead rate or rates for that period, together with supporting cost data. When the results of such negotiations in connection with another contract between the Contractor and the Government are available, such results may be adopted for use in this contract by agreement of the parties hereto. The Contractor agrees to inform the Contracting Officer promptly of such results and to make the following certification with respect thereto:

"I certify that no item of costs claimed as a direct charge under the terms of this contract has been included as an element of expense in establishing the accompanying overhead rates."

If such results are unavailable, or if agreement cannot be reached as to their use in this contract, the parties hereto agree to negotiate to determine rates and bases for special application to this contract. In the latter event, the Contractor agrees to make available to the Contracting Officer all pertinent cost records and to facilitate any audit of such records which may be required by the Contracting Officer. Ordinarily the Contractor's customary accounting periods and cost centers shall be used in the allocation of indirect costs hereunder, but other periods and centers may be used upon agreement of the parties.

ii. Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Armed Services Procurement Regulation, Section XV, Part 2, as in effect on the date of this contract.

- 33 -

RD TASK
January 1958

SECRET

SECRET

iii. The negotiation results adopted for this contract, pursuant to subparagraph i above, shall be set forth in an amendment hereto and shall become effective for this contract when so set forth. Such amendment shall specify the agreed final rates, the bases to which the rates apply, the periods for which the rates apply and, if necessary, the specific Task Order or Orders to which the rates apply.

iv. Pending establishment of final overhead rates for any period, the Contractor will be reimbursed either at negotiated provisional rates as may be agreed to from time to time, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either part, be revised by mutual agreement, either retroactively or prospectively.

v. Any failure by the parties to agree on any billing rate or final rate under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the clause of this contract entitled "Disputes."

Direct Costs

(a) Premiums paid for overtime hours worked by direct labor employed in the performance of Task Orders under this contract and properly chargeable thereto, provided that such overtime has been duly authorized by the Contracting Officer prior to the obligation of such overtime.

(b) Transportation expenses (excluding local transportation expense) actually incurred by employees of the Contractor in performance of the work under this contract. Transportation by automobile for required travel of employees under this contract shall be reimbursed as set

SECRET

SECRET

forth immediately below and shall be considered to be in lieu of the actual costs of such transportation. Subsistence expenses of employees of the Contractor while in travel status shall be as set forth immediately below. Travel for which reimbursement will be claimed hereunder and which is concerned with travel to symposiums, conventions and other gatherings as well as overseas travel shall be authorized in advance by the Contracting Officer. In the case of all other travel, the Contracting Officer reserves the right to obtain the post-approval of the Technical Representative of the Contracting Officer and any situation in which the Contracting Officer believes to require such approval. In the event the Technical Representative of the Contracting Officer questions the necessity for such travel, the claim for reimbursement of such travel shall be open to negotiation regardless of the foregoing.

Allowable rate per mile for automobile travel shall be as follows:

Personal automobile - 8¢ per mile.

Subsistence expenses shall be as follows:

Actual and reasonable not to exceed \$17.50 per day.

(c) Such other items not expressly excluded by other provisions of the contract, as should, in the opinion of the Contracting Officer, be included in the cost of the work called for in this contract. Any such items shall be specifically certified by the Contracting Officer as being allowed under this subsection.

(d) The Contractor shall obtain the approval of the Contracting Officer for (i) purchasing any item of capital equipment at a cost of \$500.00 or more, (ii) making any building alteration at a cost of \$500.00 or more, (iii) constructing buildings, or (iv) leasing real property, for the cost of any portion or all of which reimbursement will be claimed as a direct cost hereunder. For each of the above mentioned acquisitions, the Contractor shall obtain three bids and refer same together with the Contractor's recommendations, to the Contracting Officer for approval. In the event multiple bids are not obtainable, an explanation of the reason therefor shall be furnished to the Contracting Officer.

SECRET

SECRET

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

THE UNITED STATES OF AMERICA

BY

[Redacted Signature]

25X1

TITLE Contracting Officer

[Redacted Signature]

25X1

TITLE Associate Director

I, [Redacted Name]

, certify that I am the *2nd Assistant Secretary*

25X1

of the corporation named as Contractor herein; that

[Redacted Name]

25X1

who signed this contract on behalf of the Contractor was then *Associate Director*

of said corporation; that said contract was duly signed

for and in behalf of said corporation by authority of its governing body, and

is within the scope of its corporate powers.

(Corporate Seal)

[Redacted Corporate Seal]

25X1

SECRET**APPENDIX I****TERMINATION**

(a) The performance of work under the contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, (1) whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of ten days (or such longer period as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default, or (2) whenever for any reason the Contracting Officer shall determine that such termination is in the best interests of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (1) above, it is determined that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (2) above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall (1) stop work under the contract on the date and to the extent specified in the Notice of Termination (2) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination; (4) assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts; (5) with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or in part, in accordance with the provisions of this contract; (6) transfer title (to the extent that title has not already been transferred) and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Term-

(For Fixed-Fee Contracts)

SECRET

SECRET

ination, (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (iii) the jigs, dies, and fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract; (7) use its best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in provision (6) of this paragraph, provided, however, that the Contractor (1) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct; (8) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and (9) take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of the fixed-fee, or any item of reimbursable cost, under this clause. At any time after expiration of the plant clearance period, as defined in Section VIII, Armed Services Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter a storage agreement covering the same, provided that the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer its termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than two years from the effective date of termination, unless one or more extensions in writing are granted by the

SECRET

SECRET

Contracting Officer upon request of the Contractor made in writing within such two-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such two-year period or any extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Contracting Officer may 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) Subject to the provisions of paragraph (c), the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid (including an allowance for the fixed-fee) to the Contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d) above, as to the amounts with respect to costs and fixed-fee, or as to the amount of the fixed-fee, to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined as follows:

(1) If the settlement includes cost and fixed-fee

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

(ii) There shall be included therein **so far as not included under (i) above**, the cost of settling and paying **claims arising out of the termination of work** under subcontracts or orders, **as provided in paragraph (b) (5) above**, which are properly chargeable to the **terminated portion of the contract**.

(iii) There shall be included therein **the reasonable costs of settlement**, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of

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

(iv) There shall be included therein a portion of the fixed-fee payable under the contract determined as follows:

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

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

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

(2) If the settlement includes only the fixed-fee, the amount thereof will be determined in accordance with subparagraph (e)(1) (iv) above.

(f) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraphs (c) or (e) above, except that if the Contractor has failed to submit its claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(g) In arriving at the amount due the Contractor under this clause there shall be deducted (1) all unliquidated advance or other unliquidated payments theretofore made to the Contractor, (2) any claim which the Government may have

- 4 -

~~SECRET~~
CONFIDENTIAL

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against the Contractor in connection with this contract, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

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

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6% per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition.

(j) The provisions of this clause relating to the fixed-fee shall be inapplicable if this contract does not provide for payment of a fixed-fee.

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

- 5 -

(For Fixed-Fee Contracts)

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