

**PRATT & WHITNEY ROCKETDYNE, INC. (PWR)**  
**A UNITED TECHNOLOGIES COMPANY**

**CONSTRUCTION CONTRACT (FIXED PRICE - DOD/NASA FUNDED)**

CONSTRUCTION CONTRACT NO.

THIS CONTRACT entered into as of the day of \_\_\_\_\_, 20 by and between, Pratt & Whitney Rocketdyne, Inc. (herein called "PWR"), and \_\_\_\_\_ (herein called "Builder").

WITNESSETH that the parties hereto do mutually agree as follows:

1. STATEMENT OF WORK

- A. Builder shall perform the following, \_\_\_\_\_ which shall collectively hereafter be referred to as the "Work":
  
- B. The Work shall be completed on or before \_\_\_\_\_. Time is of the essence in the performance of this contract.
  
- C. PWR shall pay to Builder for the performance of the Work and all of Builder's obligations hereunder a fixed price of \$ , which price shall constitute total compensation to Builder for all of its undertakings hereunder including, without limitation, procurement of bonds and insurance (to the extent required hereunder).
  
- D. Unless otherwise provided herein, all Federal, State and local taxes are included in the price stated in paragraph C of this Article 1.
  
- E. The Work covered by this contract relates to a prime contract between PWR and the United States Government, herein called "Government".

2. CHANGES

- A. Builder and PWR may at any time, without notice to or consent of any sureties, by written change agreement hereto, make changes in the Work or otherwise amend this contract.
  
- B. Notwithstanding the foregoing, PWR may at any time, by written change notice to Builder, and without notice to or consent of any sureties, make changes in or additions to the specifications, require additional work or services or direct the omission of work or services covered by this contract. If

any such change or requirement causes any increase or decrease in the cost of, or the time required for, performance of this contract, an equitable adjustment shall be made in the contract price or performance schedule, or both, and this contract shall be modified in writing accordingly. Any claim by the Builder for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Builder of the written contract; provided, however, that PWR may, in its discretion, receive and act upon any such claim so made at any time prior to final payment under this contract. Nothing in this contract shall excuse Builder from proceeding with the contract as changed.

Builder shall make no additions, changes, alterations or omissions except upon the written order of PWR given, as provided herein, before the work in which such addition, change, alteration or omission is involved is done or any services are rendered.

- C. No change agreement or change notice to this contract shall be binding on either Builder or PWR unless in writing signed by an authorized PWR Procurement representative.

### 3. PAYMENTS

- A. Upon application of Builder accompanied by written invoices, PWR shall make monthly payments as the Work progresses based upon the percentage of the completion of the Work as determined from estimates submitted and certified to by Builder and approved by PWR, provided, however, that each monthly payment shall not exceed % of the contract price multiplied by the percentage of completion, less the aggregate of all payments previously made.
- B. Within thirty-five (35) days after completion, PWR shall pay the unpaid balance of the contract price, less any sum that may be necessary to settle any claims which PWR may have against Builder, or that may be necessary to settle any outstanding obligations of Builder or of its subcontractors arising out of or incident to the performance of this contract. Prior to final payment and as a condition hereto, Builder shall furnish PWR with (a) a certified statement of Builder that all bills and claims have been satisfied, except as stated therein, and (b) a release of all claims against PWR, whether of Builder or others arising under and by virtue of the contract, other than such claims as may be specifically excepted by Builder with the approval of PWR from the operation of the release in stated amounts to be set forth therein.

### 4. WARRANTY

Unless otherwise agreed to in writing by the parties, Builder warrants that all work performed under this contract: will be performed in the best and most workmanlike manner by qualified, careful and efficient workers, in strict conformity with the best standard practices; will be free from defect in workmanship and material; and will conform with all provisions of this contract, including, but not limited to, all specifications and drawings. The provisions of this warranty, together with any

applicable warranties and guarantees of Builder's subcontractors and suppliers, shall survive inspection, test and acceptance of and payment for the Work performed hereunder and shall run to PWR, its successors, assigns and customers. Except for latent defects, fraud or such gross mistakes of Builder as amount to fraud, notice of any defect or nonconformity may be given by PWR to the Builder at any time prior to the expiration of one (1) year after final acceptance by PWR of such work. The Builder shall promptly perform all work required to correct such defects or nonconformities by replacement or repair, as PWR may direct, all at Builder's sole cost and expense. All defective or nonconforming materials which PWR requires to be replaced shall be removed promptly from the site of the Work by Builder and at its sole expense. If the Builder fails promptly to correct any nonconformity or defect, as directed by PWR, PWR may correct such defect or nonconformity, by replacement or repair, and charge the cost thereof to the Builder. Work required to be corrected or replaced shall be subject to the provisions of this article and the article hereof entitled "Inspection" in the same manner and to the same extent as when such work was initially presented for final acceptance.

#### 5. INSPECTION

All work performed under this contract shall be subject to inspection and test by PWR, the Government and their authorized representatives during manufacture and construction and at all other times and places, including the plants of the Builder and any of its subcontractors and suppliers. Builder shall provide all reasonable facilities and assistance for the safety and convenience of PWR and the Government's inspectors. All inspections and tests shall be performed in such manner as to not unduly delay the Work. All work is also subject to final inspection and acceptance notwithstanding any payments or other prior inspections. Such final inspection shall be made within a reasonable time after completion of said work.

#### 6. REPRESENTATIVES AND EMPLOYEES

PWR will designate a responsible Field Representative at the site of the Work. Builder shall keep a competent superintendent continuously on the Work to whom the Field Representative may give directions with regard to the work from time to time. All of the employees of Builder engaged in the Work shall be subject to the rules and regulations at any time promulgated by PWR for the safe, orderly, and efficient conduct of all operations upon the site where the Work is to be performed; but this sentence shall not relieve Builder of its obligation to maintain a safe work site and comply with all applicable laws, rules and regulations related to safety. PWR shall have the right to require the removal from the Work of any employee of Builder or of its subcontractors, who, in PWR opinion, is not qualified to perform the assigned work or who is guilty of improper conduct or for any other reasons.

#### 7. WORKMANSHIP AND MATERIALS

A. Builder represents that it has carefully examined all drawings and specifications for the Work, its surroundings, and the local conditions.

B. Unless otherwise specifically provided for in the specifications, all

workmanship, equipment, materials and articles incorporated in the Work covered by this contract are to be new and of the most suitable grade of their respective kinds for the purpose. Where equipment, materials or articles are referred to in the specifications as "equal to" any particular standard, PWR shall decide the question of equality. In the manner, and to the extent required by the specifications, the Builder shall furnish PWR for approval full information concerning the equipment, materials or articles which Builder contemplates incorporating in the work. Samples of material shall be submitted for approval when required by the specifications.

- C. In addition to any requirement of the specifications, and prior to commencing work covered by this contract, Builder shall furnish PWR for approval a complete list of the subcontractors and the equipment, materials or articles Builder proposes to use in the performance of this contract. Builder shall use in the performance of this contract only those subcontractors and equipment, materials or articles which have been approved by PWR. This approval by PWR will not relieve Builder of its responsibility for the performance of such subcontractors or for any of the equipment, materials or articles incorporated in the Work.

## 8. INSURANCE AND INDEMNITY

- A. Builder hereby indemnities and holds PWR, its directors and officers, the Government, and the agents and employees of PWR and the Government harmless from all claims, actions, damages, liabilities and expenses, including counsel fees, for injury to or death of any person and for loss of or damage to property of any person caused in whole or in part by the acts or omissions of the Builder, Builder's subcontractors, or anyone directly or indirectly employed by them arising out of or in any way connected with the performance of work under this contract.
- B. Builder and Builder's subcontractors shall, at all times, maintain broad form Comprehensive Liability Insurance (including automobile liability) in such form as to protect Builder and PWR, its directors and officers, the Government, and the agents and employees of PWR and the Government as additional insureds from any claims or damages for bodily injury, including death, and any damage to property which may arise from operations under this contract, including PWR and the Government's contributing negligence. Such insurance shall include Contractual Liability assumed under this contract, and shall be primary and noncontributing to any insurance maintained or obtained by PWR and shall not be canceled or coverage involving work for PWR materially reduced, without thirty (30) days prior written notice to PWR. Limits of liability shall not be less than \$1 million combined single limit per occurrence for bodily injuries (including death) and property damage.
- C. Builder and Builder's subcontractors shall, at all times, maintain Worker's Compensation and Employers' Liability insurance in amounts not less than those necessary to meet the statutory requirements of the state or states having jurisdiction of the work to be performed.

- D. Builder hereby assumes all risk of loss of or damage to all improvements being constructed hereunder and all material, supplies and equipment used or to be used in the construction of such improvements arising from any cause whatsoever, including the acts of PWR, its officers, and directors, and the Government until all such improvements are finally accepted by PWR.
- E. Builder shall maintain insurance protecting the respective interests of Builder and PWR and the Government covering loss or damage to work in course of construction, including all machinery, materials and supplies on the premises or in transit thereto, and intended to become a part of the finished work until final acceptance by PWR. This insurance shall be in the form of "Builders All-Risk," "All-Risk Installation Floater," or equivalent. Builder shall cause such policy or policies of insurance required hereunder to be endorsed so as to provide that the insurer or insurers waive any right of subrogation against PWR and the Government.
- F. Builder shall furnish Certificates of Insurance to PWR and said certificates shall state that such insurance complies with paragraphs B, C and E of this Article B. In the event Builder neglects or refuses to provide the required Insurance Certificates to PWR for examination, or if such insurance be canceled, PWR shall have the right to obtain the same and the cost thereof shall be deducted from monies then due or thereafter to become due the Builder.

## 9. SPECIFICATIONS AND DRAWINGS

- A. Ownership The specifications and the accompanying drawings are the property of, and shall be returned to PWR at the completion of the contract, and before the Work is accepted.

### B. Conflicts, Omissions, Misdescriptions, Misinformation

Builder shall keep on the Work a copy of the drawings and specifications and PWR and the Government shall at all times have access thereto. Anything mentioned in the specifications and not shown in the drawings or shown in the drawings and not mentioned in the specifications, shall be of like effect as if shown and mentioned in both. In case of difference between the drawings and the specifications, the specifications shall govern. Omissions from the drawings or specifications or the misdescription of details of work which are either necessary to carry out the intent of the drawings and specifications or which are customarily performed, shall not relieve Builder from performing such omissions or is described details of the Work, but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

### C. Checking of Drawings and Dimensions

The Builder shall check all furnished drawings immediately upon their receipt and shall promptly notify PWR of any discrepancies. Figures marked on drawings shall in general be followed in preference to scale measurements.

Except as PWR may otherwise determine, in the case of any ambiguity or inconsistency between large scale drawings and small scale drawings, the former shall govern and in the case of any ambiguity or inconsistency between the general provisions of this contract and the specifications the former shall govern.

#### D. Deviations

Deviations from specifications and the drawings and the dimensions therein given, whether or not error is believed to exist, shall be made only after authority is obtained from PWR.

#### E. Interpretations

All questions regarding the figures, drawings, plans and specifications and the interpretation thereof and the resolving of conflicts or inconsistencies contained therein shall be determined by PWR.

#### F. Shop Drawings

The Builder shall submit to PWR for approval all shop drawings as called for under the various headings of the specifications or as otherwise required by PWR and in any event twenty (20) days prior to scheduled commencement of work therein described. Submission for preliminary check shall consist of two (2) copies. Submission for final approval shall consist of eight (8) copies. These drawings shall be complete and shall contain all required detailed information. All shop drawings shall be properly noted to indicate clearly the Page position and placement of the items detailed in relation to PWR drawings. Builder shall verify all dimensions at the project and note any discrepancies on the shop drawings. All shop drawings shall be submitted through the Builder; none will be accepted from any other source. If approved by PWR, each copy of the drawings will be identified as having such approval by being so stamped and dated. The Builder shall make any corrections required by PWR except any correction which constitutes a change in the Work shall not be made by Builder unless directed by PWR as provided in the article hereof entitled "Changes." Five (5) sets of all shop drawings will be retained by PWR and three (3) sets will be returned to the Builder. The number of copies and the submittal dates of the above drawings shall be subject to any contrary or additional provisions set forth in the specification.

#### G. Special Drawings

Whenever required by the specifications, the Builder shall make special or detailed drawings in amplification of the drawings referred to in this contract or in furtherance of the specifications before proceeding with the Work, which drawings shall be subject to the approval of PWR. When a drawing has been approved, the Builder shall furnish PWR with additional blueprint copies or with the tracing or an equivalent as regards facility for printing. If a tracing is submitted, PWR will make such prints as required and will return the tracing to the Builder. Upon completion of the Work, the Builder shall furnish PWR with

one complete set of all approved drawings which shall become the property of PWR.

#### H. Maintenance Drawings

- (1) During the performance of work under this contract, the Builder shall record and delineate accurately on one set of black and white prints of contract drawings, which will be furnished by PWR, all changes in such work, which constitute departures from the original contract drawings. The set of drawings thus corrected and changed shall show the work as actually constructed. Such maintenance drawings shall be delivered to PWR at the earliest practicable date prior to completion of all work under the contract, in any event not later than the date of acceptance of the completed work by PWR.
- (2) Builder shall review said maintenance drawings on the job site with the PWR Field Representative at weekly intervals to verify that data is properly recorded and shall include such revised drawings as may be furnished by PWR as the job progresses.
- (3) Maintenance drawings shall show sufficient detail to convey the following information:
  - (a) Physical dimensions and relation to existing conditions: Plan elevation and sectional dimensions, both above and below grade; all pipe and wire sizes. Special care shall be used in horizontal and vertical location of all underground or hidden installations.
  - (b) Description of materials and processes sufficient to determine financial value: State grades, thicknesses and types of materials, especially concealed parts.
  - (c) Tests performed and results obtained: Show results of all job tests and check outs.
  - (d) Operation and maintenance information: Submit schematic diagrams, control diagrams, maintenance charts, etc., where applicable.
- I. The approval by PWR of any drawings shall not relieve Builder of any of its obligations hereunder nor excuse nor constitute a waiver of any errors, discrepancies or omissions contained herein.

#### 10. REGULATIONS

- A. Movement of personnel, equipment, and tools on and off PWR property and while on the site shall be in accordance with PWR plant security regulations. Information as to such regulations will be made available to Builder by PWR.

- B. It shall be the Builder's responsibility to conform to good housekeeping rules by keeping all working areas, as well as the designated area which will be assigned the Builder for storage of material and equipment to be used in the performance of the Work, in a clean, neat, and orderly condition.
- C. All materials removed from the stock area to the working area shall be moved in such a manner as not to interfere with PWR operations.
- D. All material and equipment removed in the performance of this contract and which are to be returned to PWR shall be removed from the working area and disposed of as directed by PWR. All non-salvageable material and debris shall be immediately removed from the site and from PWR premises and disposed of by the Builder.
- E. The Builder shall be required to exercise extreme precautions in preventing dust, chips, droppings, water, etc., from infiltrating into adjacent areas.
- F. Builder shall fully cooperate with PWR and any other contractors doing work not covered by this contract and perform all work hereunder so as to minimize any conflicts with such other contractors as may be directed by PWR. Builder shall not commit or permit any act which will unreasonably interfere with the performance of work by other contractors or with the operations of PWR.

## 11. SAFETY AND HOUSEKEEPING

### A. Accident Prevention

- (1) All work and operations under the contract shall be performed with due regard to safety, and in strict compliance with all applicable Federal, State and local laws and ordinances, and with the rules and regulations of PWR, copies of which will be furnished upon request. All areas and equipment shall be maintained in such condition as will permit the same to be safely used and operated.
- (2) Builder shall conform to the current safety engineering practices as set forth in the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, and in the publications of the National Safety Council, to the extent that such practices are not contrary to the requirements of paragraph (a) above.
- (3) The safety measures taken shall be such as the nature of the work and the conditions under which it is to be performed may demand, and shall include the following:
  - 1. Adequate first-aid facilities and equipment.
  - (b) Adequate artificial illumination during all hours that, and at all places where, natural illumination is inadequate for the Work being performed.

- (c) Instructions in accident prevention to reach all employees, and the posting of bulletins relating thereto.
- (d) Such machinery guards, safe scaffolds, runways, ladders, railings, and gangplanks, including such other safety devices, equipment, and apparel as are necessary to prevent accidents or injuries.
- (e) Keeping all passageways and paths normally used by workmen free from lumber, wire, debris, and other obstacles, and keeping the job as a whole in an orderly and safe condition.
- (f) Providing adequate protection and warnings around all open pits and excavations throughout progress of the work.

#### B. Fire Prevention

All operations under the contract shall be so performed that no fire hazards will be needlessly created or permitted to exist. To this end, all necessary precautions shall be taken with particular reference to the following:

- (1) Clearance of the site in the vicinity of structures and combustible materials, including temporary construction, trees, shrubs, vegetable growths, and other matter that might communicate fire to such structures or materials.
- (2) Storage and handling of explosives, gasoline, oil, and other fuels, lubricants, chemicals, and all similar materials of an inflammable nature.
- (3) Segregation and spacing of temporary structures and storage piles of lumber and other combustible construction materials.
- (4) Disposition of waste materials resulting from the operations, the accumulation of which, by the nature of the materials and their location and quantity, might create or increase a fire hazard.
- (5) Immediately following the initial delivery and storage of combustible materials at the site of the Work, and throughout the construction period thereafter, the Builder shall supply and maintain suitable means of improvised fire protection equipment, unless adequate means of such protection are then existent or made available for uninterrupted service.

#### C. Material Storage

Builder will store all materials in such areas as are designated by PWR.

#### D. Dust Palliation

Throughout the entire contract, the Builder shall effectively dust-palliate the

working area, roads used in the operations and involved portions of the site. Such palliation shall consist of intermittent watering and sprinkling of such frequency as will satisfactorily allay the dust during all hours.

## 12. PERMITS AND LICENSES

Builder shall procure all necessary permits, licenses, and acceptances of the state, and all political subdivisions thereof, wherein the Work is done, and of any other duly constituted public authority, and furnish such evidence of compliance therewith as PWR may request.

## 13. EXCUSABLE DELAYS

Neither party shall be liable in damages by reason of any delay in completion of the Work hereunder due to causes beyond its control and without its fault or negligence, including, but not restricted 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 (unless PWR finds the materials or supplies to be furnished under a subcontract are obtainable from other sources) delays of a subcontractor due to such causes.

## 14. TERMINATION

- A. If Builder fails to comply with any of the provisions hereof, or in the event Builder becomes the subject of a proceeding under state or federal law for relief of debtors, or if Builder makes an assignment for the benefit of creditors, PWR shall have the right, notwithstanding the provisions of the article hereof entitled "Excusable Delays" to hold Builder in default and cancel this contract in whole or in part.
- B. Without limiting any rights which PWR may have by reason of any default by Builder hereunder, PWR reserves the right to terminate this contract in whole or in part at its convenience. In such event PWR shall compensate Builder, subject to deduction for previous payments (a) by reimbursing Builder for all actual expenditures and costs approved by PWR as having been made or incurred in performing under this contract, (b) by reimbursing Builder for all expenditures made and costs incurred with PWR prior written approval in settling or discharging outstanding commitments entered into by Builder in performing under this contract and (c) by paying Builder as a profit, insofar as a profit is realized hereunder, an amount equal to the profit on the entire contract estimated at the time of termination, multiplied by the percentage of completion of the Work. In no event, however, will the compensation to Builder exceed the total contract price less payments previously made and less the contract price of work not terminated. Upon receipt of any notice of termination, Builder shall, unless the notice otherwise directs, (a) immediately discontinue the Work and the placing of all orders and subcontracts in connection with this contract, (b) immediately cancel all existing contracts and subcontracts made hereunder and (c) immediately transfer to PWR all materials, supplies, work in process, appliances, facilities, equipment, machinery and tools acquired by Builder in connection with the performance of this contract and all plans, drawings,

specifications, and other information for use in connection therewith. Notice of termination shall be given by telegraph or other writing.

15. FAILURE TO PERFORM

Should the Builder, at any time during the progress of the Work, refuse or neglect to supply sufficient material and/or labor, or fail in compliance with any provision of this contract, PWR shall have the right, without prejudice to any other right or remedy it may have to provide such materials and labor, or make good such deficiencies as PWR may deem expedient after three (3) days' notice in writing, delivered or mailed to the Builder at its last address on file with PWR, and the Builder shall be liable for the cost and expense thereof which may be deducted by PWR from any money that may be due the Builder.

16. PATENTS

A. Patent Indemnity

The Builder hereby indemnities PWR, its officers, agents and employees against loss, damage or liability, including costs, expenses and attorney fees, which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement upon any Letters Patent of the United States arising out of the performance of this contract or out of the use or disposal by or for the account of PWR of supplies furnished or construction work performed hereunder; provided PWR shall notify Builder of any suit instituted against it and, to the full extent of its ability to do so, shall permit Builder to defend the same or make settlement in respect thereof.

B. Notice and Assistance

- (1) The Builder shall report to PWR, promptly and in reasonable written detail, each claim of patent infringement based on the performance of this contract and asserted against it, or against any of its subcontractors or suppliers if it has notice thereof.
- (2) In the event of litigation against PWR on account of any claim of infringement arising out of the performance of this contract or out of the use of any supplies furnished or construction work performed hereunder, the Builder shall furnish to PWR, upon request, all evidence and information in its possession pertaining to the defense of such litigation.

17. LIENS AND BONDS

- A. Builder shall indemnify and hold harmless the Government and PWR, its directors, officers, agents and employees, from all claims, demands, liabilities, costs, expenses, causes of action or suits of whatever nature arising out of the labor and materials furnished by Builder or its subcontractors under this contract, and from all laborers', materialmens' and mechanics' liens upon the real property upon which the work is located arising out of the labor and materials furnished by Builder or any of its subcontractors under this contract, and shall keep said property free and

clear of all liens, claims and encumbrances arising from the performance of this contract by Builder or its subcontractors. The term "subcontractor" as used in this paragraph shall mean a subcontractor of any tier.

- B. If the work is not to be performed in the State of California, Builder shall, to the extent permitted by applicable law, obtain and maintain in effect at all times during the performance of work under this contract, including but not limited to any warranty period specified herein, such bond or bonds as will (i) if the work is to be performed on property of the Federal Government, satisfy the Miller Act, or (ii) if the work is to be performed on private property, enable the real property on which such work is being performed to be freed and otherwise released from the effect of any mechanic's lien or other lien or claim filed by any person furnishing labor or materials or otherwise performing any work on said real property under this contract, or any subcontract placed hereunder, and from the effect of any action or proceeding brought to foreclose or otherwise satisfy such lien or claim. Said bond shall be in such amount as is required by applicable law, but shall in no event be in an amount less than the contract price as the same may be revised from time to time, and shall be in such form and placed with such surety or sureties as PWR may approve.
- C. Builder shall also provide a performance bond with good and sufficient sureties and in an amount not less than the contract price, as the same may be revised from time to time, which bond must be satisfactory to PWR.
- D. The bonds required above shall be provided prior to the commencement of the Work, unless otherwise specified by PWR in writing.

#### 18. COMPLIANCE WITH LAWS

- A. To the extent applicable hereto, Builder shall in the performance of this contract comply with: the Fair Labor Standards Act of 1938 (29 U.S.C. 201-219); the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45); laws prohibiting the use of convict labor; all other federal, state, and local laws; all regulations and contracts issued under any applicable law. Builder warrants that the work to be performed hereunder complies with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651-678) and the Radiation Control for Health and Safety Act of 1968 (42- U.S.C. 263 b-n) and all applicable regulations and standards promulgated thereunder. Also, Builder shall, while on the premises on which the work is to be performed, comply with all applicable rules and regulations of the Occupational Safety and Health Administration and Builder shall indemnify and hold PWR, its directors, officers, agents, and employees harmless from and against any and all claims, damages or causes of action resulting from Builder's failure to comply with said rules and regulations.
- B. LABOR PROVISIONS. This contract, to the extent that it is of a character specified in the Davis-Bacon Act, as amended, and/or the Copeland (Anti-Kickback") Act, is subject to the following statutory provisions and Department of Labor regulations as set forth in the referenced Federal

Acquisition Regulation (FAR), as in effect on the date hereof. The term "Contracting Officer" as used herein shall mean the Contracting Officer under PWR prime contract with the Government, "Contractor" means Builder, "subcontractor" means Builder's subcontractor and "Prime Contractor" means PWR.

- (1) UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS - FAR 52.219-8
- (2) SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN - FAR 52.219-9 (applicable to contracts over \$500,000) in paragraph (b) (1) it means Contracting Officer and PWR. in which "contracting Officer" means PWR in the first sentence of paragraph (c)
- (3) UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES FAR 52.219-13
- (4) LABOR SURPLUS AREA SUBCONTRACTING PROGRAM - FAR52.220-4
- (5) LABOR SURPLUS AREA SUBCONTRACTING PROGRAM – FAR 52.220-4. (Applicable to contracts that may exceed \$500,000)
- (6) NOTICE TO THE GOVERNMENT OF LABOR DISPUTES - FAR 52.222-1 in which "Contracting Officer" means PWR.
- (7) PAYMENT FOR OVERTIME PREMIUMS - FAR 52.222-2 in which \$ \_\_\_\_\_ is inserted in the blank in paragraph (a) and "Contracting Officer" means Contracting Officer and PWR
- (8) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION – FAR 52.222-2. PWR may withhold or recover from the Builder such sums as the Contracting Officer withholds or recovers from PWR because of liabilities of Builder or its subcontractors under this clause.
- (9) DAVIS-BACON ACT – FAR 52.222-6
- (10) WITHHOLDING OF FUNDS - FAR 52.222-7 "PWR may in turn take such action against Builder to the extent the failure is attributable to Builder" is added at the end of the clause.
- (11) PAYROLLS AND BASIC RECORDS - FAR 52.222-8 in which "Contracting Officer" and "Prime Contractor" mean PWR in paragraph ?b) (1); and "Contracting Officer" means Contracting Officer or PWR in paragraph (c).
- (12) APPRENTICES AND TRAINEES - FAR 52.222-9 "PWR shall

determine the number of apprentices Builder shall use in any craft classification on the job site." is added after the second sentence in paragraph (a).

- (13) COMPLIANCE WITH COPELAND ACT REQUIREMENTS - FAR 52.222-10
- (14) SUBCONTRACTS (LABOR STANDARDS) - FAR 52.222-11 in which "Prime Contractor" means PWR. In paragraphs (b) (1) and (b) (2) "Contracting Officer" means PWR, "14 days" is changed to "7 days" and Builder shall provide such form for this contract to PWR with the acknowledgment of the contract.
- (15) CONTRACT TERMINATION - DEBARMENT - FAR 52.222-12
- (16) COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS FAR 52.222-13
- (17) DISPUTES CONCERNING LABOR STANDARDS - FAR 52.222-14 in which "the Contractor" is changed to "PWR, Builder".
- (18) CERTIFICATION OF ELIGIBILITY - FAR 52.222-15
- (19) EQUAL OPPORTUNITY - FAR 52.222-26 in which paragraphs (a) and (c) are deleted.
- (20) AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION FAR 52.222-27
- (21) AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS - FAR 52.222-35
- (22) AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS - FAR 52.222-36
- (23) CLEAN AIR AND WATER - FAR 52.223-2
- (24) BUY AMERICAN ACT - CONSTRUCTION MATERIALS FAR 52.225-5

#### 19. MILITARY SECURITY REQUIREMENTS

If this contract involves access to classified information by Builder, the clause set forth in Section 52.204-2 of FAR is hereby incorporated herein by reference, except that the term "Contractor" shall mean Builder, and "Government" shall mean PWR or the Government.

20. SUBCONTRACTING AND ASSIGNMENT

Performance of the work may not be subcontracted in whole nor substantially in whole, and Builder may not assign any of its rights or obligations without, in each case, the prior written consent of PWR.

21. EFFECT OF-INVALIDITY

The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision.

22. REMEDIES

The remedies provided PWR herein shall be cumulative, and in addition to any other remedies provided by law or equity. A waiver of a breach of any provision hereof shall not constitute a waiver of any other breach.

23. UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS, WOMEN-OWNED SMALL BUSINESS AND LABOR SURPLUS AREA CONCERN

To support Government policy as declared by the Congress, and as consistent with the efficient performance of this contract, Builder agrees to accomplish a maximum amount of subcontracting to small business, small disadvantaged business and women-owned small business concerns, and to use its best efforts to place subcontracts hereunder with subcontractors who will perform such subcontracts substantially in areas of persistent or substantial labor surplus when it can be done at prices no higher than are obtainable elsewhere observing exemptions and preferential order established by applicable Government regulations.

24. BOOKS AND RECORDS

Builder agrees that its books, records and its plants or such part thereof as may be engaged in the performance of this contract, shall at all reasonable times be subject to inspection and audit by any authorized representative of the Department or Agency of the Government having cognizance over the prime contract under which this contract is placed.

25. GRATUITIES

Builder warrants that neither it nor any of its employees, agents or representatives has offered or given any gratuities to PWR employees, agents or representatives with a view toward securing this contract or securing favorable treatment with respect thereto.

26. RELEASE OF NEWS INFORMATION AND ADVERTISING

Builder shall not, without the prior written consent of PWR (a) make any news

release, public announcement, denial or confirmation of all or any part of the subject matter of this contract, or any phase of any program hereunder; or (b) in any manner advertise or publish the fact that PWR has placed this contract.

## 27. NOTICE TO PWR OF LABOR DISPUTES

- A. Whenever Builder has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, Builder shall immediately give notice thereof, including all relevant information with respect thereto, to PWR.
- B. Builder agrees to insert the substance of this clause, including this paragraph, in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract, except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay or any actual or potential labor dispute, the subcontractor shall immediately notify Builder of all relevant information with respect to such dispute.

## 28. PWR-FURNISHED ITEMS

The provisions of this Article shall apply if PWR-furnished items are to be used in the course of this contract. The delivery or performance dates for the supplies or services to be furnished by the Builder under this contract are based upon the expectation that, to the extent PWR is to furnish items to the Builder, such items will be delivered, suitable for use, to Builder at the times stated in this contract or, in the event such times are not stated, in a timely manner. In the event that PWR-furnished items are not delivered to Builder by such time or times, PWR shall, upon written request made by Builder, determine the delay occasioned Builder thereby, and equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by such delay in accordance with the procedures set forth in the Article of this contract entitled "Changes;" provided Builder makes such written request to PWR within thirty (30) days after the date scheduled for PWR delivery. In the event PWR-furnished items are received by Builder in a condition not suitable for the intended use Builder shall upon receipt thereof, notify PWR of such fact and, as directed by PWR, either (a) return such items at PWR expense or otherwise dispose thereof, or (b) effect repairs or modifications. Upon completion of (a) and (b) above, PWR, upon written request of Builder, shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by the rejection or disposition, or the repair or modification, in accordance with the procedures set forth in the Article of this contract entitled "Changes;" provided the Builder makes such written request to PWR within thirty (30) days after receipt of said items. The foregoing provisions for adjustment are exclusive PWR shall not be in default nor liable to suit for breach of contract by reason of any delay in delivery of PWR-furnished items or delivery thereof in a condition not suitable for their intended use.

29. DISPUTES

Any dispute arising under this contract which is not settled by agreement of the parties may be settled by appropriate legal proceedings. Pending any decision, appeal or judgment in such proceedings or the settlement of any dispute arising under this contract, Builder shall proceed diligently with the performance of this contract in accordance with the decision of PWR.

30. NON-INTERFERENCE

Builder shall fully cooperate with PWR and all other contractors doing work on or about the construction site covered by this contract and shall perform the Work so as to minimize conflicts with said other contractors. In the event Builder unreasonably obstructs or interferes with work being performed by said other contractors, Builder shall, at its own expense, take such steps or measures deemed necessary by PWR to eliminate such obstruction or interference. In any event, Builder shall take such steps or measures as PWR may direct in writing to avoid potential obstructions or interferences or to eliminate existing obstructions or interferences.

31. 31. EXAMINATION OF RECORDS

The Comptroller General of the United States and the Department or Agency of the Government having cognizance over the prime contract under which this contract is placed, and any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers and records of Builder involving transactions related to this contract.

32. EVIDENCE OF CITIZENSHIP OR IMMIGRANT STATUS

In compliance with its obligations under contracts with the United States government, PWR may be required to obtain information concerning citizenship or immigrant status of subcontractor personnel entering the premises of PWR. Builder agrees to furnish this information before commencement of work and at any time thereafter before substituting or adding new personnel to work on PWR premises. Information submitted by Builder shall be certified by an authorized representative of Builder as being true and correct.

33. NOTICES

Any notice or order provided for in this contract shall be considered as having been given (i) to PWR, if mailed by certified mail, postage prepaid to The PWR Company, 6633 Canoga Avenue, P.O. Box 7922, Canoga Park, CA 91309-7922,

Attention: Purchasing Department, or (ii) to Builder if delivered personally to its superintendent at the site of the Work, or if mailed by certified mail, postage prepaid to.

34. JURISDICTION

This contract and all performance hereunder shall be governed and interpreted by the laws of the state where the work will be performed.

35. ALTERATIONS

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

BUILDER

Pratt & Whitney Rocketdyne Inc.

BY \_\_\_\_\_

By: \_\_\_\_\_

LICENSE NO. \_\_\_\_\_

ITS \_\_\_\_\_

Title: \_\_\_\_\_