

Contract: NOa- 1031  
Bureau: Aeronautics  
Appropriation: 1741502.1, Aviation, Navy, 1944 ... \$3,500,000

Maximum Amount of Contract: Three Million, Five Hundred Thousand Dollars (\$3,500,000)

CONTRACT FOR PLANT FACILITIES

THIS NEGOTIATED CONTRACT is entered into as of the 16<sup>th</sup> day of November, 1943, by the UNITED STATES OF AMERICA, hereinafter called the Department, represented by the Contracting Officer, and <sup>New Department, Washington, D.C.</sup> Grumman Aircraft Engineering Corporation, a corporation organized and existing under the laws of the State of New York, hereinafter called the Contractor, <sup>whose office is located at</sup> Bethpage, New York.

This Contract is entered into pursuant to the Act of December 18, 1941, entitled "First War Powers Act, 1941" and the President's Executive Orders of December 27, 1941 and November 5, 1942. The purpose of this Contract is to provide additional plant facilities for use by the Contractor in the manufacture of supplies required by the Department or by suppliers of the Department, for the prosecution of the war.

PART I - ACQUISITION, CONSTRUCTION AND INSTALLATION OF PLANT FACILITIES.

ARTICLE 1. SCOPE.

(a) The Contractor shall promptly acquire, construct and install, by subcontracts or otherwise, the Plant Facilities listed and described in Appendix A to this Contract.

(b) The Plant Facilities shall be located upon the land described in Appendix A, and may not be moved to another location without the consent of the Contracting Officer.

ARTICLE 2. TITLE TO LAND.

(a) The Contractor represents, except as otherwise specified in Appendix A, that it has good and marketable title to the land described in Appendix A; that such land is accurately described therein; and that such land is not subject to any lien or encumbrance.

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(b) The Contractor shall furnish such documentary or other evidence of its title to the land described in Appendix A as may be required by the Department.

ARTICLE 3. SUPERVISION.

(a) Civil Works. The acquisition, construction and installation by the Contractor of any and all items of land, land improvements, buildings, building improvements and building installations (other than machinery and mechanical or portable equipment) included in Appendix A (which items are herein for convenience collectively called Civil Works) shall be subject to approval and supervision by an Officer-in-Charge designated by the Bureau of Yards and Docks; this includes approval of plans and specifications, costs, subcontractors, subcontracts, architects, engineers and fees.

(b) Machinery. All items of the Plant Facilities, other than Civil Works as defined above, shall be hereinafter collectively called the Machinery, and shall be acquired and installed in accordance with the lists and descriptions in Appendix A, except for changes made in accordance with Article 4 of this Contract. The Contractor shall use its best efforts to acquire the Machinery at the best prices obtainable, and shall obtain used machinery and equipment where practicable, or where specifically directed by the Contracting Officer; provided, however, that the Contractor's judgment as to practicability, unless unreasonable, shall be accepted by the Department.

ARTICLE 4. CHANGES.

(a) The Contracting Officer may at any time make changes in Appendix A, by written notice to the Contractor.

(b) The Contractor may at any time make changes in Appendix A with the written consent of the Contracting Officer. Changes requested by the Contractor with respect to items of Civil Works, and not involving any increase in the Maximum Amount of this Contract, may be approved by the Officer-in-Charge, acting on behalf of the Contracting Officer, or may, in said Officer's discretion, be referred to the Contracting Officer for approval. Changes requested by the Contractor with respect to items of Machinery, and not involving any increase in the Maximum Amount of this Contract, may be approved by the Inspector of Naval Aircraft, acting on behalf of the Contracting Officer, or may, in said Inspector's discretion, be referred to the Contracting Officer for approval.

ARTICLE 5. INSPECTION.

From time to time as the acquisition, construction and installation of the Plant Facilities proceeds, the said facilities shall be inspected, and accepted or rejected on behalf of the Department, (1) with respect to items of Machinery, by the Inspector of Naval Aircraft, and

(ii) with respect to items of Civil Works, by the Officer-in-Charge. All items of the Plant Facilities which are within the scope (as defined in Article 1) and satisfactory for the purpose of this Contract shall be accepted. Items rejected hereunder shall be replaced or reworked by the Contractor in such manner as to be acceptable hereunder.

ARTICLE 6. PAYMENTS BY THE DEPARTMENT.

(a) Amount. The Department shall pay to the Contractor the Allowable Cost, as determined by the Bureau of Supplies and Accounts in accordance with Section (b) of this Article, incurred by the Contractor (i) in acquiring, constructing and installing the Plant Facilities in accordance with this Contract, (including all costs incurred prior to receipt of notice of, or by reason of compliance with, changes in Appendix A ordered by the Contracting Officer), and (ii) to the extent not compensated by insurance, in replacing or reworking items rejected in accordance with Article 5 hereof, except to the extent that such rejections shall be determined by the Contracting Officer to have been due to fault of the Contractor, the risk of which has not been assumed by the Department pursuant to Article 9 hereof. In no event shall the amount to be paid by the Department pursuant to this Article exceed the Maximum Amount set forth on Page 1 of this Contract, or such increased Maximum Amount as may from time to time be expressly approved in writing by the Contracting Officer. The Contractor's obligation under this Contract to acquire, construct and install the Plant Facilities and to comply with changes in Appendix A ordered by the Contracting Officer shall not obligate the Contractor to incur costs (including commitments) in excess of such Maximum Amount.

(b) Allowable Cost. The Bureau of Supplies and Accounts shall determine Allowable Cost. Such determination shall be made in accordance with the following principles:

- A. Allowable Cost shall include no profit to the Contractor.
- B. Allowable Cost may include an agreed amount to cover (i) the cost of the services of the Contractor's organization in acquiring, constructing and installing the Plant Facilities and (ii) interest charges incurred by the Contractor on funds from time to time borrowed and expended for the purpose of acquiring, constructing, and installing the Plant Facilities. Such agreed amount may be set forth in Appendix A or may be estimated in Appendix A and agreed upon at some subsequent time, not later than the time of agreement upon or determination of the Agreed Fixed Price as hereinafter provided. Except to the extent of such agreed amount, if any, Allowable Cost shall include no salaries of the Contractor's executive officers, no part

of the expense incurred in conducting the Contractor's main office or regularly established branch offices, no overhead expenses of the Contractor of any kind, and no interest charges incurred or paid by the Contractor on any indebtedness whatsoever.

- C. There shall be deducted, in computing Allowable Cost, all cash and trade discounts, rebates, allowances, credits, salvage, commissions and bonifications ~~which have accrued to the Contractor~~ which have accrued to the Contractor.

(c) If this Contract shall be terminated pursuant to Article 16 hereof prior to completion of the Plant Facilities, the Contractor shall follow instructions of the Contracting Officer with respect to cancellation or assignment of subcontracts and commitments and cessation of work on the Plant Facilities, and Allowable Cost shall include costs incurred by the Contractor arising out of such termination and compliance with such instructions.

(d) Interim Payments on Account of Allowable Cost. Once each month, and at any time when the Contractor shall have incurred costs in the aggregate amount of \$25,000 or more not covered by invoices theretofore submitted, the Contractor may submit to an authorized representative of the Bureau of Supplies and Accounts an invoice, supported by a statement of costs incurred by the Contractor in the performance of this Contract. Such invoices and statements of cost shall be in such form and reasonable detail as the Bureau of Supplies and Accounts shall require. The statements of cost shall be certified by two responsible officials of the Contractor, one of whom shall be a person supervising accounting with respect to this Contract. The statements of cost shall first be submitted by the Contractor to (i) the Inspector of Naval Aircraft, if such statements include any costs in connection with acquisition or installation of Machinery, and (ii) the Officer-in-Charge, if such statements include any costs in connection with Civil Works, and no such statement shall be accepted by the Bureau of Supplies and Accounts, unless the Inspector of Naval Aircraft, and/or the Officer-in-Charge, shall have first indicated thereon in writing that in his or their opinion the items covered by such statement are within the scope (as defined in Article 1) of this Contract.

Within thirty (30) days after submission of each interim invoice and statement of cost, the Department shall make provisional payment of the amount shown thereon, subject to adjustments upward or downward resulting from any audit by the Bureau of Supplies and Accounts with respect to (i) such statement or (ii) any prior statement. At any time after payment of interim invoices totaling seventy-five per cent (75%) of the Maximum Amount of this Contract, the Bureau of Supplies and Accounts may withhold payment of any further interim invoices until such time as the said Bureau shall have made an audit with respect to all items of the Plant Facilities covered by invoices and statements theretofore paid.

(e) Agreed Fixed Price and Final Payment. Prior to payment of the final invoice, the Contracting Officer and the Contractor shall agree upon a Fixed Price to be paid by the Department to the Contractor on account of the acquisition, construction and installation of the Plant Facilities: Said Fixed Price may be agreed upon at any time prior to such final payment. Said Fixed Price shall be in lieu of all Allowable Cost provided for under this Article, and all payments theretofore made by the Department to the Contractor on account of Allowable Cost shall be deemed to have been made on account of said Fixed Price and in the determination thereof an effort will be made to compensate the Contractor for all Allowable Cost incurred by the Contractor. In the event of failure of the Contracting Officer and the Contractor to agree, the Fixed Price shall be determined in accordance with the procedure provided in Article 24 of this Contract governing disputes. The Fixed Price so agreed upon or determined shall be set forth in a memorandum referring to this Article and signed by the Contracting Officer and the Contractor. Such memorandum shall also set forth the times and manner of payment by the Department to the Contractor of the balance, if any, of the Fixed Price owing to the Contractor after deducting all interim payments theretofore made by the Department under this Article. In the event that the Fixed Price shall be less than the total of all interim payments theretofore made by the Department to the Contractor, the Contractor shall promptly repay such excess to the Department.

(f) Liens in Favor of the Department. Any and all payments made hereunder shall be secured, when made, by a lien in favor of the Department upon the articles and things contracted for on account of all payments so made and on all material and other property acquired for or allocated to the performance of this Contract, except to the extent that the Department, by virtue of any other provisions of this Contract or otherwise, shall have valid title to such articles, things, materials or other property as against other creditors of the Contractor. Said lien is hereby established and made paramount to all other liens under the provisions of an Act approved August 22, 1911 (Public No. 41, 62nd Congress; 37 Stat. 32; 34 U.S.C. 582).

(g) Set Off. If any claim arising out of this Contract is assigned pursuant to the provisions of Article 21 hereof, payments pursuant to this Article to be made by the Department to such assignee shall not be subject to reduction or set-off for any indebtedness of the Contractor to the United States arising independently of this Contract.

ARTICLE 7. TITLE TO PLANT FACILITIES.

Each and every item of the Plant Facilities, including any and all repairs and replacements thereto which may hereafter be made in accordance with the provisions of this Contract, shall become the sole property of the Department upon the acquisition, construction or installation thereof by the Contractor or its subcontractors, or sooner, upon the

occurrence of any event whereby title passes out of the Contractor's vendor. Title to all items of the Plant Facilities acquired, constructed or installed prior to the execution of this Contract, pursuant to any letter or letters of intent issued in anticipation of this Contract, shall vest in the Department upon execution of this Contract. The provisions of this Article shall not, however, impair the right of the Contracting Officer and his representatives to reject, in accordance with Article 5 of this Contract, items not within the scope or unsatisfactory for the purposes of this Contract.

ARTICLE 8. MARKING FOR IDENTIFICATION - INVENTORY.

The Contractor shall separately inventory the items of the Plant Facilities and shall, so far as practicable, mark or identify the same to render the items readily identifiable as having been constructed or acquired hereunder, and so as to indicate the Department's interest therein, in manner satisfactory to the Inspector of Naval Aircraft, and shall furnish the Contracting Officer with a copy of such inventory which shall include a description of each such item with the serial number or other mark of identification thereof.

ARTICLE 9. INSURANCE - LOSS OF OR DAMAGE TO PLANT FACILITIES.

(a) The Department hereby requests the Contractor not to carry or incur the expense of any insurance prior to termination of this Contract in accordance with Article 16 hereof, against any form of loss of or damage to the Plant Facilities except such insurance as may hereafter be required or approved by the Department. The Contractor agrees that if any insurance against any form of loss or damage to the Plant Facilities shall be carried by the Contractor, other than insurance hereafter required or approved by the Department, no cost of such insurance not so required or approved will be charged directly or indirectly to the United States under any of the Contractor's contracts. The Contractor shall, however, be reimbursed under Article 6 of this Contract for the cost of insurance against loss or damage to the Plant Facilities carried by the Contractor during the period of time between the date of issue of any letter of intent and the date of execution of this Contract, provided such insurance be approved by the Chief of the Insurance Division, Office of Procurement and Material, Navy Department.

(b) The Contractor shall not be responsible to the Department for any loss of or damage to the Plant Facilities (other than loss or damage to items of the Plant Facilities resulting from failure of the Contractor to maintain such items in accordance with Article 13 hereof), whether or not caused by the negligence of the Contractor, its agents, servants or employees, prior to termination of this Contract pursuant to Article 16 hereof. Notwithstanding the foregoing, the Contractor shall be responsible to the Department for any loss or damage (1) with respect to which the Contractor has failed to insure as required or approved by the Department, or (ii) which results from willful misconduct or lack of

good faith on the part of any of the Contractor's directors, officers or any of its representatives having supervision or direction of all or substantially all of the Plant Facilities.

ARTICLE 10. INSURANCE - LIABILITY TO THIRD PERSONS.

(a) The Contractor shall, with respect to the acquisition, construction, installation and use of the Plant Facilities, prior to termination of this Contract pursuant to Article 16 hereof, procure and maintain workmen's compensation, employer's liability, and bodily injury liability insurance, and such other liability insurance as the Department may from time to time require or approve. All such insurance shall be in such form, in such amounts, for such periods of time, and with such insurers, as the Department may from time to time require or approve. The cost of such insurance with respect to the period of acquisition, construction and installation of the Plant Facilities shall be an item of Allowable Cost under this Contract. The cost of such insurance with respect to the period of use by the Contractor of the Plant Facilities shall not be reimbursed to the Contractor under this Contract, but shall be a proper element of cost in establishing the prices to be paid for the Contractor's products.

(b) The Department will hold the Contractor harmless from liabilities to third persons incurred and paid by the Contractor for loss of or damage to property, death or bodily injury, not compensated by insurance or otherwise, arising out of the acquisition, construction and installation of the Plant Facilities, whether or not such liabilities are caused by the negligence of the Contractor, its agents, servants or employees, provided such liabilities are reduced to final judgments, or settlements approved in writing by the Department, and expenses incidental to such liabilities, except liabilities (i) with respect to which the Contractor has failed to insure as required or approved by the Department, or (ii) which result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers or any of its other representatives having supervision or direction of all or substantially all of the Plant Facilities. The Department will hold the Contractor harmless from similar liabilities subject to the same exceptions, arising out of the use of the Plant Facilities, so long as and to the extent that said facilities shall be owned by the Department and used by the Contractor in the performance of work for the United States or for suppliers of the United States.

(c) The Contractor shall give the Department, represented for this purpose by the Chief of the Insurance Division, Office of Procurement and Material, Navy Department, immediate notice of any suit or action filed, or any claim made, against the Contractor arising out of the acquisition, construction, installation or use of the Plant Facilities by the Contractor, the cost or expense of which is reimbursable to the Contractor under the provisions of this Article, and the risk of which is or is asserted by the insurer to be then uninsured, or in which the amount claimed exceeds the amount of insurance coverage. The Contractor shall furnish immediately to the Department copies of all pertinent papers received by the Contractor.

If the amount of the liabilities claimed exceeds the amount of insurance coverage, the Contractor shall authorize representatives of the Department to collaborate with counsel for the insurer, if any, in settling or defending such claim. If the liability is not insured, the Contractor shall, if required by the Department, authorize representatives of the Department to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith.

PART II - USE, MAINTENANCE AND RENTAL OF COMPLETED  
PLANT FACILITIES PRIOR TO TERMINATION OF  
CONTRACT.

ARTICLE 11. USE OF PLANT FACILITIES.

(a) The Department hereby grants to the Contractor the right to use the Plant Facilities in the Contractor's manufacturing operations; provided, however, that:

- (1) The Contractor shall give priority with respect to use of the Plant Facilities to contracts with or orders from the United States or suppliers of the United States, and shall comply with any instructions of the Department with respect to priority to be accorded to such contracts or orders.
- (ii) In negotiating the price to be paid by the United States or by such suppliers, no allowance shall be made to cover in any part the cost of acquisition, construction, or installation of the Plant Facilities or the amortization or depreciation thereof;
- (iii) This right of use may be terminated by either party in accordance with the provisions of Article 16 of this Contract.
- (iv) With respect to any item or items of Machinery (including items not yet delivered to the Contractor's plant), this right of use may be terminated by the Contracting Officer at any time, and the said item or items removed from the Contractor's plant (if installed therein), when in the judgment of the Contracting Officer such item or items are more urgently needed elsewhere. Such item or items shall thereupon cease to be a part of the Machinery under this Contract, but the Contractor shall nevertheless be entitled to payment on account of its costs in connection with the acquisition and installation thereof, under Article 6 hereof.



(b) With respect to any Plant Facilities to be located upon land of the Contractor, the Contractor agrees that such Plant Facilities shall remain upon the Contractor's said land until removed or disposed of in accordance with the provisions of this Contract, and that the Department and its representatives shall at all times have rights of ingress and egress with respect thereto.

ARTICLE 12. RENTAL.

It is contemplated that, prior to termination of this Contract in accordance with Article 16 hereof, the Contractor will use the Plant Facilities substantially entirely in performance of the work under contracts with the United States. No rental shall be paid by the Contractor for such use of the Plant Facilities. The Contractor agrees that if at any time prior to such termination of this Contract, the Plant Facilities shall be used by the Contractor to any substantial extent in performance of work for others than the United States, the Contractor will immediately notify the Contracting Officer of such use of the said facilities, and will pay to the Department for such use a rental in such amount and on such terms as may be agreed upon between the Contracting Officer and the Contractor, subject to final decision by the Secretary of the Navy under Article 24 hereof, in the event of failure of the Contracting Officer and the Contractor to agree.

ARTICLE 13. MAINTENANCE.

(a) The Contractor shall be responsible, prior to termination of this Contract in accordance with Article 16 hereof, for the care and maintenance of the Plant Facilities. All items of the Plant Facilities which at the Termination of this Contract shall not be purchased by the Contractor pursuant to Article 17 hereof, shall be in a good state of maintenance and repair except for destruction, wear or damage normally incident to the production carried on by the Contractor and for such destruction or damage arising out of causes or risks not normally incident to such production which shall not have been provided for by restoration, reconditioning or replacement pursuant to Article 14 hereof. The Contractor shall, however, be under no obligation to maintain or repair items from time to time determined by the Contracting Officer to be obsolete or no longer used or useful in connection with the production by the Contractor of the supplies to be produced for the United States or for suppliers of the United States. Such items no longer used or useful and also items requiring modification for what the Contractor deems to be improved production efficiency may at any time, with the consent of the Inspector of Naval Aircraft, be reworked, readjusted or adapted by the Contractor to the then requirements of the production of supplies for the United States or for suppliers of the United States, or may be sold in accordance with Article 15 hereof.

(b) The Contracting Officer may from time to time issue reasonable instructions to the Contractor with respect to proper care, maintenance and precautionary measures with respect to the Plant Facilities. The Contractor shall forthwith comply with such instructions of the Contracting Officer. Failure of the Contracting Officer to give any such instructions

shall not relieve the Contractor of its obligations under this Article.

(c) Costs incurred by the Contractor in complying with the requirements of this Article shall not be reimbursed to the Contractor under this Contract, but shall be proper elements of cost in establishing the prices to be paid for the Contractor's products.

ARTICLE 14. REPLACEMENT OF PLANT FACILITIES DAMAGED OR DESTROYED.

(a) In the event that all of the Plant Facilities or any item or group of items thereof shall, prior to termination of this Contract pursuant to Article 16 hereof, be destroyed or damaged, the Contractor shall immediately notify in writing the Contracting Officer, and shall, if and only if so required by the Contracting Officer, restore, recondition or replace the Plant Facilities to such extent and in such manner as shall be specified by the Contracting Officer. The cost of such restoration, reconditioning and replacement (except costs compensated by insurance) as determined in accordance with the principles set forth in Article 6(h) of this Contract, shall (within the limits of appropriations available for such purposes) be reimbursed from time to time to the Contractor by the Department; which reimbursement shall not be limited by the Maximum Amount of this Contract, provided, however, that an agreed price shall be substituted for such cost reimbursement in the manner set forth in Article 6(e) of this Contract; provided, further, that the Contractor shall not be reimbursed for any costs arising out of any loss or damage for which the Contractor is responsible under Article 9 of this Contract.

(b) Items of the Plant Facilities damaged and not required by the Contracting Officer to be restored may be removed by the Contractor from its premises, under supervision (i) as to items of Machinery, by the Inspector of Naval Aircraft and (ii) as to items of Civil Works, by the Officer-in-Charge; and the cost of such removal (exclusive of any costs compensated by insurance), including repair of damage to Contractor's premises caused thereby, shall be reimbursed to the Contractor in the manner set forth in Section (a) above; provided, however, that the Contractor shall not be so reimbursed for any such costs arising out of damage for which the Contractor is responsible under Article 9 of this Contract.

ARTICLE 15. SALE OF PORTIONS OF FACILITIES PRIOR TO TERMINATION OF CONTRACT.

Prior to termination of this Contract, the Contractor, with the consent of the Contracting Officer, may lease or sell on behalf of the Department any item or items of the Plant Facilities, including an land or any item which has become obsolete or unfit for use in the business of the Contractor, upon the condition that such item or items are in the judgment of the Contracting Officer not required and not likely to be required by the Department in the interests of national defense, on such terms and for such consideration as may be agreed upon by the Contracting Officer and the Contractor, and the consideration received on such lease or sale shall be credited by the Contractor upon amounts due from the Department to the Contractor under this Contract, or shall be paid over to the Department, as the Contracting Officer may direct.

PART III - TERMINATION OF CONTRACT -  
DISPOSITION OF PLANT FACILITIESARTICLE 16. TERMINATION OF CONTRACT.

(a) Termination by Contracting Officer. The Contracting Officer may at any time give written notice (hereinafter called a Termination Notice) to the Contractor terminating this Contract.

(b) Termination by Contractor. If, during any 90-day period (excluding therefrom any period during which the Plant Facilities are not used as a result of destruction or damage to such facilities and the period of any restoration, reconditioning or replacement thereof required by the Contracting Officer) after the completion of the acquisition, construction and installation of the Plant Facilities the same are not used to a substantial extent by the Contractor for furnishing supplies to the United States or to suppliers of the United States and if substantial use of the Plant Facilities is no longer required for any such purpose, or if prior to such completion, as a result of termination by the United States of one or more contracts for supplies, the Contractor is able to perform in accordance with their terms, without the use of the Plant Facilities, all contracts with the United States or with suppliers of the United States not cancelled as a result of such termination, the Contractor may give a similar termination notice (also hereinafter called a Termination Notice) to the Contracting Officer after the expiration of such 90-day period or after such termination of contracts for supplies, as the case may be. The date of the Termination Notice shall be the date of its issue or receipt by the Contracting Officer, as the case may be. If the Contracting Officer shall disagree with the Contractor as to whether or not the Plant Facilities have not been so used to a substantial extent for the 90-day period or are not so required, or whether in the event of termination of one or more contracts for supplies the Contractor is able to perform its remaining contracts with the United States or with suppliers of the United States in accordance with their terms without the use of the Plant Facilities, he shall notify the Contractor, in writing or by telegraph, within fifteen days from the date of the Termination Notice; and the Contractor may forthwith, by written or telegraphic notice (hereinafter called the Arbitration Notice), require the question to be submitted for determination by arbitrators, one appointed by the Contracting Officer and one by the Contractor within fifteen days from the receipt by the Contracting Officer of the Contractor's Arbitration Notice, and an additional arbitrator selected by the two arbitrators so appointed by the parties or, if one of the parties shall have failed to appoint its arbitrator within the time hereunder provided, by the sole arbitrator so appointed. If such additional arbitrator is not so selected within thirty days from the receipt by the Contracting Officer of the Contractor's Arbitration Notice, such additional arbitrator shall be appointed by the Senior Judge of the Circuit Court of Appeals for the Circuit in which the Plant Facilities or the major portion thereof are located.

ARTICLE 18. FACILITIES NOT PURCHASED BY THE CONTRACTOR.

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(a) Department's Option to Purchase Land. In the event that the Contractor shall not give the Purchase Notice provided for in Article 17(a) hereof within ninety (90) days after the date of the Termination Notice or in the event that the Contractor shall not exercise the option granted to it by Article 17(b) hereof within ninety (90) days following the determination or approval of fair value of the Plant Facilities by the Secretary of the Navy, the Department is hereby granted an option to purchase the Contractor's land described in Appendix A at a price (hereinafter called the Option Price) either to be agreed upon by the Department and the Contractor or to be determined by the Secretary of the Navy within the times and upon the terms and conditions hereinafter provided. The Department and the Contractor shall, within a period of sixty (60) days following the expiration of either of said ninety (90) day periods referred to in the preceding sentence, whichever is later, agree upon an amount which shall constitute the Option Price. In the event, however, that the Department and the Contractor either cannot or do not agree upon the Option Price within said period of sixty (60) days, the Secretary of the Navy shall, within ninety (90) days after the expiration of said sixty (60) day period, determine the fair value of said land and the fair value as determined by the Secretary of the Navy shall constitute the Option Price. The Option Price, whether determined by agreement or by the Secretary of the Navy, shall not in any event, however, (i) exceed the cost to the Contractor of said land, (ii) include the amount of any increase in the value of said land attributable to the improvements thereto for which the Department has theretofore paid in the performance of its obligations under this Contract, or attributable to any other expenditure theretofore made by the Department in respect of said land or (iii) include any allowance for any interest or right of the Contractor in or in respect of any part of said land not owned by the Contractor.

The Department shall have a period of ninety (90) days after the Option Price shall have either been agreed upon by the Department and the Contractor or determined by the Secretary of the Navy, as hereinabove provided, within which to exercise its option to purchase said land at the Option Price. In the event that the Department exercises its option to acquire said land, the Contractor will, with respect thereto, execute and deliver to the Department or as the Department may direct, such deed or deeds and other instruments, including evidence of title, as the Department may require.

(b) Removal of Machinery not Purchased by the Contractor. At any time after expiration of the Contractor's option granted by Article 17(b) hereof, the Department may and when requested by the Contractor shall remove from the Contractor's premises any or all machinery not theretofore purchased by the Contractor from the Department. Such

removal shall be effected by the Department in neat and workmanlike fashion and the Contractor's premises and facilities, including facilities purchased by the Contractor from the Department, as affected by such removal, shall be restored by the Department so as to leave the same in good and usable condition. In the event that the Department shall fail, after 90 days written notice to the Contracting Officer from the Contractor, to initiate steps to remove any such Machinery specified by the Contractor in its notice, the Contractor shall be entitled to remove any such Machinery at its own expense, provided prompt notice of such removal be given to the Contracting Officer, and the Contractor shall not be responsible to the Department for damage or deterioration to such Machinery necessarily resulting from such removal.

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(c) Standby Facilities. After termination of this Contract, all Civil Works located on the Contractor's land and not purchased by the Contractor shall be maintained and insured by the Contractor, to the extent required or approved by the Contracting Officer, as standby facilities for the account of the Department. The Department shall (within the limits of any regulations available for such purposes) reimburse the Contractor for all costs of or incident to such maintenance and insurance, including property taxes, if any, assessed to the Contractor or levied against the Contractor's land by reason of the existence of the said standby facilities, such costs to be determined by the Bureau of Supplies and Accounts, provided, however, that any property tax assessed to the Contractor or levied against the Contractor's land by reason of the existence of said standby facilities shall not be reimbursed to the Contractor unless the Contractor shall (i) advise the Department promptly of the imposition of such tax by the State or local taxing authority; (ii) take such action as may be requested by the Department to file application for abatement of the tax, to appeal to the tax board having jurisdiction of the tax, to take advantage of any other administrative or judicial remedy that the Contractor may be entitled to pursue, to preserve and, upon the request of the Department to accept or cause to be assigned to the Department, any and all rights to refund or abatement of such tax, and to permit the Department to prosecute any claim, litigation or proceeding in the name of the Contractor; (iii) upon the request of the Department, pay any such tax under protest or cause the same to be so paid; and (iv) furnish to the Department all reasonable assistance and information requested by the Department in any litigation or proceeding for recovery or abatement of such tax or otherwise in connection with the foregoing clauses (i) to (iv), both inclusive, such action, assistance and cooperation by the Contractor to be furnished without expense on his part. The Department may remove any or all of such standby facilities from the Contractor's premises at any time. Upon termination of the useful life of any item or items of such standby facilities, being into account obsolescence as well as actual depreciation, as determined by the Contracting Officer (subject to final concurrence with Article 11 of this Contract), the Contractor may receive and retain the same at his own expense, and thereupon all right, title and interest therein of the Department shall terminate and the Contracting

Officer shall execute and deliver to the Contractor a release of all such Department right, title and interest. The Contractor may likewise remove and dispose of any such standby facilities at any time when the Department shall have failed, after 90 days written notice from the Contractor, to reimburse the Contractor for any costs of maintenance, insurance or taxes incurred by the Contractor with respect thereto, which costs are reimbursable in accordance with this paragraph. The Contractor may exercise the rights of removal and disposition granted to it under this paragraph in such manner as it may deem advisable and may contract with a professional wrecker for the removal and disposition of any such standby facilities. Any proceeds received by the Contractor from such removal and disposition may be retained to the extent necessary to reimburse it for its costs of (i) such removal and disposition and (ii) any maintenance, insurance and tax expenses incurred by the Contractor and for which it is entitled to reimbursement. Any excess of such proceeds over and above such costs shall be paid over to the Department. Any such standby facilities may, with the consent of the Contracting Officer, and subject to such conditions regarding rental and other matters as the Contracting Officer may impose, be used by the Contractor for any work for the United States, or for any purpose desired by the Contractor. The Contractor may negotiate with the Contracting Officer at any time with reference to purchase of any such standby facilities from the Department. So long as the Department shall own any such standby facilities on the Contractor's premises, the Department may use the standby facilities or authorize the use thereof for any purpose provided, however, that the Department agrees, so far as it lawfully may, that it will not at any time (i) authorize the use of all or any part of the standby facilities by any competitor of the Contractor or (ii) use the standby facilities or authorize the use thereof for storage, processing or manufacture of explosives.

(d) It is understood and agreed between the Contractor and the Department that the provisions of this Contract governing sale, standby periods, and other disposition of the Plant Facilities shall be without prejudice to the right of the Contractor or the Department to negotiate at any time with respect to alternative terms or methods of ultimate disposition of the said facilities in accordance with any general program applicable to other facilities contracts with other contractors which may hereafter be approved by the Secretary of the Navy.

#### PART IV - GENERAL PROVISIONS

##### ARTICLE 19. FACILITIES TO REMAIN PERSONALTY.

No part or item of the Plant Facilities shall be or become part of any realty whatsoever, by reason of affixation to such realty.

ARTICLE 20. RECORDS, ACCOUNTS AND PREMISES, ACCESS THERETO AND INSPECTION THEREOF.

REVISED PAGE 34

(a) The Contractor agrees to keep records and books of account showing the actual cost of all items of labor, materials, equipment, supplies, services and other expenditures of whatever nature, in connection with the acquisition, construction and installation of the Plant Facilities, the care and maintenance thereof, and any restoration, reconditioning or replacement, lease or sale thereof. The method of accounting employed by the Contractor shall be subject to the approval of the Contracting Officer but no material change will be made in the Contractor's method of accounting if it conforms to good accounting practice and is sufficient for the purpose of applying the provisions of the articles of this Contract governing the determination of costs.

(b) The Contracting Officer or his duly authorized representative shall at all times be afforded proper facilities for inspection of the Plant Facilities, during and after construction, and shall at all reasonable time have access to the premises, work and materials, and to all books and records referred to in the foregoing Section (a) of this Article. All information obtained from said books and records shall be treated as confidential.

(c) The Contractor shall preserve all records and books of account pertaining to this Contract; provided, however, that if the Contractor, at any time after the lapse of six (6) years following the date of Termination Notice, desires to dispose of said records and books of account, he shall so notify the Contracting Officer, who shall either authorize their destruction or notify the Contractor to turn them over to the Department for disposition, and the Contractor shall promptly comply with such notice if given.

(d) Should the Contractor enter into any subcontract on a cost-plus-a-fixed-fee basis which is incidental to the performance of this Contract, the foregoing provisions of this Article shall be applicable to and included in, such subcontract.

ARTICLE 21. ASSIGNMENT OF CONTRACTOR'S CLAIMS.

(a) Neither this Contract nor any interest herein, except as otherwise provided in this Article, shall be transferred by the Contractor to any party or parties.

(b) Claims for moneys due or to become due to the Contractor from the Department, arising out of this Contract, may be assigned to any bank, trust company or other financing institution, including any Federal lending agency; and any such assignment may cover all or any part of any claim or claims arising or to arise out of this Contract and may be made to any one or more such institutions participating in the financing of this Contract. Any claims so assigned may be subject to further assignment; and any bond, promissory note or other evidence of indebtedness secured by any such assignment may be rediscounted, hypothecated as collateral for a loan or credit, or sold with or without

DEED 2805 PAGE 316

recourse. In the event of the assignment or reassignment of any claim for monies due or to become due under this Contract, the assignee thereof shall file written notice of the assignment or reassignment together with a true copy of the instrument of assignment, with (a) the General Accounting Office of the Government, (b) the Contracting Officer, and (c) with the Disbursing Officer of the Navy Department at Washington, D. C., who is hereby designated to make all payments under this Contract. In no event shall copies of any plans, specifications or other similar documents marked "RESTRICTED", "CONFIDENTIAL" or "SECRET" and annexed or attached to or made a part of this Contract be furnished to any assignee of any claim arising under this Contract or to any other person not otherwise entitled to receive same.

#### ARTICLE 22. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Department the right to terminate the Contract, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. In the event of such termination, the Contractor shall not be entitled to its option under Article 17 of this Contract. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

#### ARTICLE 23. 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 or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

#### ARTICLE 24. DISPUTES.

Except as otherwise specifically provided in this Contract, all disputes concerning questions of fact arising under this Contract shall be decided by the Contracting Officer subject to written appeal by the Contractor within 30 days to the Secretary of the Navy or his duly authorized representative, whose decision shall be final and conclusive upon the parties thereto. In the meantime the Contractor shall diligently proceed with the work as directed.

#### ARTICLE 25. DEFINITIONS.

(a) The term "Secretary of the Navy", as used herein shall mean the Secretary of the Navy, the Under Secretary of the Navy or any Assistant Secretary of the Navy and shall include any person authorized to act for him.



(b) The term "Contracting Officer" as used herein shall mean the Chief of the Bureau of Aeronautics or any Contracting Officer of the Bureau of Aeronautics, or any other person authorized to act for the Chief of the Bureau of Aeronautics.

ARTICLE 26. RATE OF WAGES.

This Article is applicable only to the extent that performance of this Contract is subject to the provisions of the Davis-Bacon Act.

(a) The Contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by applicable regulations prescribed by the Secretary of Labor); the full amounts accrued at time of payment, computed at wage rates not less than those stated in the specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics; and the scale of wages to be paid shall be posted by the Contractor in a prominent and easily accessible place at the site of the work. The Contracting Officer shall have the right to withhold from the Contractor so much of accrued payments as may be considered necessary by the Contracting Officer to pay to laborers and mechanics employed by the Contractor or any subcontractor on the work the difference between the rates of wages required by the Contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the Contractor, subcontractors, or their agents.

(b) In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by the Contract has been or is being paid a rate of wages less than the rate of wages required by the Contract to be paid as aforesaid, the Department may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and prosecute the work to completion by contract or otherwise, and the Contractor shall be liable to the Department for any excess costs occasioned the Department thereby.

ARTICLE 27. CONVICT LABOR.

The Contractor shall not employ any person undergoing sentence of imprisonment at hard labor.

ARTICLE 28. NON-DISCRIMINATION IN EMPLOYMENT.

The Contractor, in performing the work required by this Contract, shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor further agrees that each subcontract made under this Contract will contain a similar provision with respect to non-discrimination.

ARTICLE 29. NON-REBATE.

The Contractor shall comply with the regulations of the Secretary of Labor, entitled "Regulations Applicable to Contractors and Subcontractors on Public Building and Public Work and on Building and Work Financed in Whole or in Part by Loans or Grants from the United States" (7 F.R. 687,925,2591), and any amendments or modifications thereof, pursuant to the Copeland Act of June 13, 1934, 48 Stat. 492 (U.S. Code, title 40; sections 276b and 276c), and shall insert in subcontracts appropriate provisions which will require compliance therewith by all subcontractors subject thereto, except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerance, and exemptions from the requirements of said regulations and any amendments or modifications thereof.

ARTICLE 30 - OVERTIME COMPENSATION OF LABORERS AND MECHANICS.

This Contract is subject to the provisions of Section 203 of the Second Supplemental National Defense Appropriation Act, 1941 (Pub. No. 781, 78th Cong.), approved September 7, 1940.

ARTICLE 31. LABOR STATISTICS.

The Contractor shall by agreement require its subcontractors to report to the Department of Labor, within (5) days after the close of each calendar month, on forms to be furnished by the Department of Labor, the number of persons on their respective pay rolls, the aggregate amount of such pay rolls, the man hours worked, and the total expenditures for materials. The Contractor shall furnish to the Department of Labor the names and addresses of all subcontractors on the work at the earliest date practicable; provided, however, that the requirements of this paragraph shall be applicable only to work performed hereunder at the site of the construction project.

ARTICLE 32. RENEGOTIATION.

(a) The Contractor shall require the insertion of the following provisions in each subcontract for the amount in excess of \$10,000 directly entered into by the Contractor under this Contract:

(1) Upon written request of the Secretary of the Navy at such period or periods when in the judgment of the Secretary of the Navy the profits accruing under this Contract can be determined with reasonable certainty, the contract price shall be renegotiated by the Secretary of the Navy and

(Subcontractor)  
to eliminate therefrom such amount as is found as a result of such renegotiation to represent excessive profits.

(2) Any profits found as a result of such renegotiation to be excessive and not eliminated through reductions in the contract price hereunder or otherwise, shall, as the Secretary of the Navy may direct, (i) be retained by \_\_\_\_\_

\_\_\_\_\_ (Contractor)  
for the Department, or (ii) be repaid by \_\_\_\_\_

\_\_\_\_\_ (Subcontractor)  
to the Department, if such excessive profits have been paid to \_\_\_\_\_

\_\_\_\_\_ (Subcontractor)  
(3) \_\_\_\_\_ (Contractor)  
is hereby relieved from any liability to \_\_\_\_\_

\_\_\_\_\_ (Subcontractor)  
on account of any amount retained or repaid pursuant to paragraph (2) above.

(4) \_\_\_\_\_ (Subcontractor)  
shall, upon the direction of the Secretary of the Navy, require the insertion in any subcontract made hereunder, of contract provisions conforming substantially to the provisions of this Article.

(5) Any renegotiation under this Article shall be conducted pursuant to the provisions of Section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended.

(b) Any profits under any subcontract hereunder which are found as the result of renegotiation to be excessive and which the Contractor is directed by the Secretary of the Navy to withhold from payments otherwise due the subcontractor and actually unpaid at the time of receipt of such direction, shall be retained by the Department from amounts otherwise due the Contractor.

(c) For the purpose of this Article,

(1) The term "Secretary of the Navy" shall be deemed to include any authorized representative of the Secretary of the Navy, and

(2) The term "subcontract" means any purchase order or agreement to perform all or any part of the work or to make or furnish any article, required for the performance of another contract or subcontract, unless exempted from the provisions of Section 403, as amended, under subsection (1) thereof. The term "article", as used in this definition, includes any material, part, assembly, machinery, equipment, or other personal property.

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ARTICLE 33. PATENTS.

(a) The Contractor shall hold and save the Department, the officers, agents, servants, and employees, harmless from patent liability of any nature or kind, including costs and expenses, for or on account of any patented or unpatented invention made or used in the performance of this Contract, including the use or disposal thereof by or on behalf of the Department: Provided, That the foregoing shall not apply to inventions covered by applications for United States Letters Patent which, on the date of execution of this Contract, are being maintained in secrecy under the provisions of Title 35, U. S. Code (1940 ed.), section 42, as amended; Provided further, That this Article is not, and shall not be construed to be, applicable to any infringement of United States Letters Patent which results from the Contractor complying with specific written instructions furnished by the Department, or where infringement is occasioned by the use of an apparatus patent due to the fabrication, installation or operation of apparatus in accordance with plans and specifications furnished to the Contractor by the Department.

(b) The Contractor shall promptly notify the Department in writing of any and all claims of infringement relating to this Contract that may be brought to the Contractor's attention; and in case of litigation on account thereof, the Contractor shall assist the Department at the latter's expense, save for services of the Contractor's employees, in furnishing such evidence as to the use of the patents and other matters of fact as may be required by the Department in such litigation.

ARTICLE 34. RECORDATION AND FILING.

The Contractor shall take all necessary steps, as may be required by the Contracting Officer, to put on public record evidence of such interest in the realty and personalty involved in this Contract as the Department may have hereunder, and to give third parties notice of such interest. The Contractor shall for purposes of recordation and filing duly execute and acknowledge copies of this Contract or summaries thereof, in such form and manner as the Contracting Officer may require, with appendices, schedules and exhibits in the original form or in such summarized form and with such description of the property therein referred to as the Contracting Officer may require. Recordation and filing will be effected by the Department or its authorized representative, the costs thereof to be paid by the Contractor and reimbursed to it by the Department. After the Department's interest in the facilities shall have terminated, or the facilities shall have been removed from the land of the Contractor, in accordance with the provisions of this Contract, the Department will execute,

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acknowledge and deliver to the Contractor such releases or other instruments as may reasonably be required to clear the Contractor's record title to its property and to evidence the termination of whatever interest the Department may have had therein. From time to time, at the request of the Contractor, and within the discretion of the Contracting Officer, the Department may execute, acknowledge and deliver such releases or other instruments with respect to any portion or portions of the Contractor's property.

ARTICLE 35. FEDERAL, STATE AND LOCAL TAXES.

(a) Upon request of the Contractor, the Department will issue appropriate tax exemption certificates or furnish other proof of exemption for use by the Contractor and any cost-plus-a-fixed-fee subcontractor hereunder (provided that there is no fixed-price subcontractor intervening between such subcontractor and the Contractor), in respect of any tax, duty, impost, or excise, or any sale, use, transportation, occupational, or gross receipts tax or any similar tax or charge (other than a tax upon the income of the Contractor or subcontractor), imposed by the Federal Government or any state or local government and directly applicable to the completed articles or work to be furnished under this Contract, or to articles incorporated in such complete articles or work, or to the materials required or used in the production of such supplies or work, or to the importation, transportation, production, processing, manufacture, construction, sale or use of such supplies or materials; and upon the issuance of such tax exemption certificate or furnishing of other proof of exemption with respect to any such tax or charge, such tax or charge shall not be considered an item of Allowable Cost under this Contract; Provided, that at its option, the Department, in lieu of issuing tax exemption certificates or furnishing other proof of exemption, may reimburse the Contractor for any such tax or charge, as an item of Allowable Cost under this Contract or the cost-plus-a-fixed-fee subcontract.

(b) Notwithstanding the foregoing, amounts paid by the Contractor in respect of any such state or local tax will be considered items of Allowable Cost under this Contract if the state or local taxing authorities refuse to recognize the tax exemption certificate or other proof of exemption furnished hereunder and the tax is paid by the Contractor under protest; provided, however, that the Contractor shall take such steps as may be requested by the Department to cause such tax to be paid under protest, to preserve and to cause to be assigned to the Department any and all rights to the refund of such tax, to permit the Department to prosecute any claim, litigation or proceeding in the name of the Contractor, and to furnish to the Department all reasonable assistance and cooperation requested by the Department in any litigation or proceeding for the recovery of such tax.

The parties hereby reexecute this contract for recordation purposes with a summarized appendix, according to, and pursuant to, the terms of Article 34 on this 31st day of August, 1941.

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TWO WITNESSES:

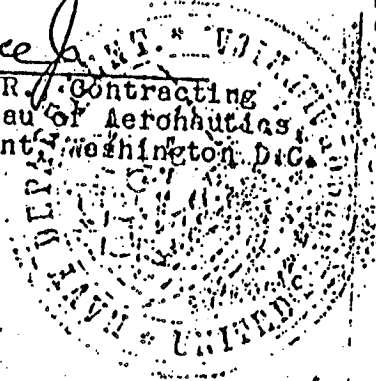
THE UNITED STATES OF AMERICA

Horace B. B. Robinson  
Horace B. B. Robinson

By E. M. Face, Jr.  
Contracting  
Officer, Bureau of Aeronautics  
Navy Department, Washington, D.C.

Betty Bernstein  
Betty Bernstein

(SEAL)



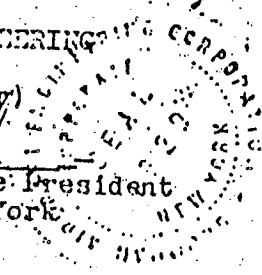
TWO WITNESSES:

GREENAW AIRCRAFT ENGINEERING CORPORATION

Joseph P. Kushing  
Joseph P. Kushing

(Contractor)  
By E. Clinton Towl  
E. Clinton Towl, Vice President  
Bethpage, L.I., New York

(SEAL)



ACKNOWLEDGMENTS

District of Columbia )  
 )ss.  
City of Washington )

I, Lucille Holland, a notary public, in and for the District of Columbia, do hereby certify that E. M. Pace, Jr., Contracting Officer, ~~XXXXXXXXXX~~ Bureau of Aeronautics, Navy Department, acting for the United States of America, party to a certain instrument hereto annexed, personally appeared before me in said district, the said, E. M. Pace, Jr. being personally well known to me as the person who executed said instrument on behalf of the United States of America, and acknowledged the same to be his act and deed.

Given under my hand and seal this 18th day of August



*Lucille Holland*

Lucille Holland, Notary Public, D. C.  
My Commission Expires Sept. 1, 1943.

State of New York )  
 )ss  
County of Madison )

On the 31st day of August in the year 1944, before me personally came E. Clinton Towl to me known, who, being by me duly sworn, did depose and say that he resides in Brooklet, New York, no street or number; that he is the vice president of the Gruman Aircraft Engineering Corporation, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.



*Charles Tingely*  
Notary Public  
Commission Expires 3/30/45

**AFFIDAVITS OF GOOD FAITH**

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District of Columbia )  
 ) ss.  
 City of Washington )  
E. M. Pace, Jr., Contracting Officer, Bureau of  
Aeronautics,  
 acting on behalf of the Secretary of the Navy, United States of America,  
 being first duly sworn, says:

That the United States has a just claim against the facilities and property covered by Contract No. 100-1031 between the United States of America and Gruman Aircraft Engineering Corporation in accordance with the terms of the contract and amendments thereto on file in the Navy Department, Washington, D. C.

That the contract, which is made a part hereof by this reference, is bona fide, just and true, and was executed in good faith to assure the performance of the terms of and to secure the payment of the amount, debt, liability, obligation and agreement therein set forth;

That the amount, debt, liability and obligation is justly due and owing and that the contract was not executed to hinder, delay or defraud any creditors in the collection of their debts.

*E. M. Pace, Jr.*  
 \_\_\_\_\_  
 E. M. Pace, Jr. (Signature)



and sworn to before me this 18th day of August.

*Lucille Holland*  
 \_\_\_\_\_  
 Lucille Holland, Notary Public, D. C.  
 My Commission Expires Sept. 1, 1946

State of New York )  
 ) ss.  
 County of \_\_\_\_\_ )

M. Clinton Towl being first duly sworn on oath, deposes and says that he is the vice president of the Gruman Aircraft Engineering Corporation, a corporation, the corporation mortgagor in the foregoing instrument;

That the United States has a just claim against the facilities and property covered by Contract No. 100-1031 between the Navy Department and Gruman Aircraft Engineering Corporation in accordance with the terms of the contract and amendments thereto on file in the Navy Department, Washington, D. C.

That the contract, which is made a part hereof by this reference, is bona fide, just and true, and was executed in good faith to assure the performance of the terms of and to secure the payment of the amount, debt, liability, obligation and agreement therein set forth;

That the amount, debt, liability and obligation is justly due and owing and that the contract was not executed to hinder, delay or defraud any creditors in the collection of their debts.

*M. Clinton Towl*  
 \_\_\_\_\_  
 (Signature) M. Clinton Towl



*Charles Kingseley*  
 \_\_\_\_\_  
 Charles Kingseley  
 Notary Public

My commission expires 3/30/45 19



SUMMARIZED APPENDIX AND/OR SCHEDULES

FACILITIES CONTRACT BETWEEN UNITED STATES AND GRUMAN AIRCRAFT  
ENGINEERING CORPORATION  
 \_\_\_\_\_, DATED 16 November 1943, NUMBER NOa-1031

This copy of the above identified contract, reexecuted in accordance with Article 34 of the contract to enable the recording thereof, is in summarized form for security reasons, especially in reference to the appendix and/or schedules. The original copy of the contract with detailed appendix and/or schedules is on file in the Navy Department. It is intended that the recording of this copy of the contract shall also cover such facilities (and the cost thereof) as may be described in any amendments thereto, whether executed prior to the date of this recordation or thereafter, and reference is hereby made to such amendments, if any, which shall be on file in the Navy Department.

The facilities described in the appendix and/or schedules of this contract are summarized as follows:

1. Buildings (Exclusive of additions to existing buildings):

Building or buildings constructed pursuant to this contract on land described below, in accordance with plans on file in the Navy Department.

2. Other Property:

All plant facilities, including, but not limited to, building equipment, fixtures, machinery, machine equipment, tools, furniture, additions to existing buildings and improvements to the property other than buildings, located on, or attached to, or used in connection with the property described below, labeled with the tag or impression or stencil reading substantially: "This property is subject to interest of the United States under Navy Contract NOa-1031 and amendments thereto" or other identification and/or more particularly enumerated and described in the original appendix and/or schedules of this contract and amendments thereto, if any, heretofore or hereafter made, on file in the Navy Department.

DISTRICT OF COLUMBIA, ss:

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

I, CHARLES E. STEWART, Clerk of the District Court of the United States for the District of Columbia, the same being a Court of Record, having by law a seal, do hereby certify that \_\_\_\_\_ of \_\_\_\_\_ State whom the annexed instrument in writing was executed, and whose name is set forth therein, was at the time of signing the same a NOTARY PUBLIC in and for said District and was commissioned by \_\_\_\_\_ and authorized by the laws of said District to take the acknowledgment and proof of deeds, conveyances of lands, tenements, or hereditaments, and other instruments in writing, to be recorded in said District, and to administer oaths; and that I am well acquainted with the handwriting of said Notary Public and I believe that the signature to said instrument and impression of seal therein are genuine, after comparison with signature and impression of seal of said Notary Public.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Court, at

the City of Washington, D. C., the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19 \_\_\_\_\_.

CHARLES E. STEWART, Clerk.

By \_\_\_\_\_ Deputy Clerk.

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The above summarized facilities are located on, or attached to or used in connection with (but by the terms of this contract not to be considered as part of the realty whether attached or not), the contractor's land described as follows:

ALL that certain plot, piece or parcel of land situate, lying and being at Hickville, Town of Oyster Bay, County of Nassau and State of New York bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Hazel Street with the westerly side of South Oyster Bay Road; running thence along the westerly side of South Oyster Bay Road the following three courses and distances; (1) south 3 degrees 53 minutes 04 seconds west 1841.06 feet; (2) south 1 degree 36 minutes 40 seconds west 923.80 feet; (3) south 7 degrees 54 minutes 20 seconds west 78.35 feet to the extreme northerly end of the curve connecting the westerly side of South Oyster Bay Road with the easterly side of Massapequa Hickville Road (Broadway); running thence along said curve bearing to the right having a radius of 19 feet and whose chord bears south 74 degrees 48 minutes 40 seconds west and is 92.48 feet in length, a distance of 120.89 feet, to a point in the easterly side of Massapequa Hickville Road; running thence along the easterly side of Massapequa Hickville Road the following five courses and distances; (1) north 34 degrees 30 minutes 10 seconds west 192.72 feet; (2) northerly on a curve bearing to the right having a radius of 1766.59 feet and whose chord bears north 29 degrees 43 minutes 50 seconds west and is 296.67 feet in length, a distance of 297.02 feet; (3) north 25 degrees 02 minutes 40 seconds west 488.84 feet; (4) north 25 degrees 51 minutes 50 seconds west 541.31 feet; (5) north 23 degrees 50 minutes 30 seconds east 530 feet; thence north 66 degrees 09 minutes 30 seconds west 672.42 feet; running thence north 66 degrees 09 minutes 30 seconds west 853.70 feet to a point in the southerly side of Hazel Street; thence along the southerly side of Hazel Street the following two courses and distances; (1) south 85 degrees 00 minutes 00 seconds east 532.47 feet to a monument; (2) south 85 degrees 02 minutes 10 seconds east 553.75 feet to the corner at the point or place of beginning.

The agreed value of the above described property is \$1,325.00 per acre. Contractor represents that it is the owner in fee of the aforesaid property and that there are no liens outstanding against it. Should the Contractor not elect to retain the facilities erected upon said property, it agrees upon receipt of the agreed value thereof to convey to the Government all of its right, title, and interest to said property.

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U. S. S. BUREAU NO. 3002

COUNTY CLERK'S OFFICE

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HASSAU COUNTY, N. Y.

Pay to the order of the County Clerk  
\$ 46  
V-1  
2998 11-22-44

RECEIVED  
SHERIFF'S OFFICE  
ROCHESTER, N. Y.

RESTRICTED

Navy Department  
Bureau of Aeronautics  
Contract Number: NOa(s) 1679  
(Superseding Letter of  
Intent for Contract 1679)

Cost-Plus-Fixed-Fee Contract

Contractor: GRUMMAN AIRCRAFT ENGINEERING CORPORATION  
Place of Inspection: Contractor's Plant Bethpage, Long Island, New York  
Estimated Cost: \$69,205,000  
Fixed Fee: \$ 2,768,200  
Appropriation: 1741502.1 Aviation Navy, 1944  
Procurement Directive: 1814-44

THIS NEGOTIATED CONTRACT is entered into as of the 1st day of April 1944, between the UNITED STATES OF AMERICA, hereinafter called the Government, represented by the contracting officer executing this contract, and GRUMMAN AIRCRAFT ENGINEERING CORPORATION, a corporation organized and existing under the laws of the State of New York, whose address is Bethpage, Long Island, New York, hereinafter called the contractor. The contractor agrees to furnish and the Government agrees to pay for the articles, and services if any, hereinafter described upon the following terms and conditions:

SECTION 1 - ARTICLES TO BE FURNISHED AND ESTIMATED COST AND FEE

The articles to be furnished by the contractor and the estimated cost thereof and the fixed fee to be paid by the Government are as follows:

<u>Item</u>	<u>Quantity</u>	<u>Estimated Unit Cost</u>	<u>Estimated Total Cost</u>
1 Preliminary Design Data and Drawings	1 set		\$ 50,000.00
2 Static Test article, Tests and Miscellaneous Data			120,000.00
3 Airplanes, Model F7F-1	500	\$100,000	50,000,000.00
4 Spare parts in accordance with Appendix a hereto, to approximately 38% of the money value of the airplanes, Item 3			29,000,000.00
5 Final Corrected Information and Drawings	1 set		35,000.00
Total Estimated Cost			\$69,205,000.00

Fixed Fee	\$ 2,768,200.00
Total Estimated Cost plus Fixed Fee	\$71,973,200.00

SECTION 2 - DELIVERIES

All specifications referred to in this contract and not otherwise identified are specifications of the Bureau of Aeronautics, Navy Department.

Deliveries shall be construed to occur on the date the Item is turned over to the Government at the delivery point specified. Reports of shipment will be furnished by the contractor to the Bureau of Aeronautics Representative within forty-eight (48) hours after shipment. Deliveries shall be made as follows:

Item 1 - Design Data and Drawings, after inspection by the Bureau of Aeronautics Representative, shall be delivered to the Bureau of Aeronautics in accordance with Addendum No. 96, dated 2 September 1943, to Specification SR-6 as they are finished. Deliveries of Design Data and Drawings shall be completed not later than the month of May 1944.

Item 2 - Tests and Miscellaneous Data, after inspection by the Bureau of Aeronautics Representative, shall be delivered to the Bureau of Aeronautics in accordance with addendum No. 96, dated 2 September 1943, to Specification SR-6 as they become available. Deliveries of Tests and Miscellaneous Data shall be completed not later than the month of May, 1944.

The Static Test article shall be delivered, suitably boxed or crated, f.o.b. contractor's plant, for shipment to the N. A. S., Philadelphia, Pennsylvania, during the month of May, 1944.

Item 3 - Each airplane shall be delivered, set up, serviced with three hundred sixty (360) gallons of gasoline and twenty-four (24) gallons of oil, and ready for flight at or near contractor's plant, or, upon reasonable notice (and subject to equitable adjustment as soon as practicable in the estimated cost and fee), suitably prepared for shipment, in accordance with instructions of the contracting officer, f.o.b. at or near Bethpage, Long Island, New York, in accordance with the following delivery schedule:

<u>Quantity</u>	<u>Month of Delivery</u>
2	May 1944
3	June "
5	July "
10	August "
15	September "
22	October "
28	November "
35	December "

<u>Quantity</u>	<u>Month of Delivery</u>
45	January 1945
50	February "
65	March "
75	April "
75	May "
70	June "

Item 4 - The spare parts shall be delivered in accordance with appendix A annexed hereto.

Item 5 - Final Corrected Information, after inspection by the Bureau of Aeronautics Representative, shall be delivered to the Bureau of Aeronautics in accordance with Specification SR-6, Part III, within thirty days after delivery of the last airplane. Final Corrected Drawings, after inspection by the Bureau of Aeronautics Representative, shall be delivered to the Bureau of Aeronautics in accordance with Addendum No. 96, dated 2 September 1943, to Specification SR-6.

### SECTION 3 - DESCRIPTION OF ITEMS AND SPECIFICATIONS

Item 1 - Design Data and Drawings shall be applicable to the airplanes, Item 3, and shall be in accordance with Specification SR-6, Part I, as modified by Addendum No. 96, dated 2 September 1943.

Item 2 - Tests and Miscellaneous Data shall be applicable to the airplanes, Item 3, and shall be in accordance with Specification SR-6, Part II, as modified by Addendum No. 96, dated 2 September 1943. The Static Test article shall be representative of the airplanes, Item 3, and shall be furnished in accordance with Addendum No. 96, dated 2 September 1943, to Specification SR-6.

Item 3 - Each airplane shall be furnished completely assembled and ready for flight in accordance with Specification SD-294-1, dated 5 May 1943, except that changes may be ordered pursuant to the Section of this contract entitled "Changes".

Item 4 - The spare parts shall be furnished in accordance with Appendix A hereto. A Maintenance Parts Breakdown shall be submitted in accordance with Army-Navy Aeronautical Specification AN-M-9.

Item 5 - Final Corrected Information and Drawings shall be in accordance with Specification SR-6, Part III, as modified by Addendum No. 96, dated 2 September 1943. Final Corrected Information shall be applicable to the last airplane of Item 3. Final Corrected Drawings shall be applicable to the airplanes of Item 3 specified in Addendum No. 96, dated 2 September 1943, to Specification SR-6.

## SECTION 4 - COMPENSATION

(a) The Government shall pay to the contractor the allowable Cost, as defined in paragraph (b) below, plus a fixed fee of \$2,768,200. It is contemplated that twenty percent (20%), on the basis of estimated costs, of the work under this contract will be subcontracted and that a further ten percent (10%) of such work may also be subcontracted, and the amount of the fee has been fixed on this basis. When authorized changes made as provided in the Section hereof entitled "Changes" materially increase or decrease the total estimated cost of the airplanes and other items to be delivered hereunder, this contract shall be amended as provided in said Section to adjust the fixed fee proportionately. When the Government because of the requirements of public necessity or otherwise accepts airplanes or other items under this contract which do not conform to the guarantees set forth herein, the Government shall pay the Allowable Cost as hereinafter defined of furnishing and delivering such articles, but in such event the fixed fee may be reduced by an amount fixed by the contracting officer, which shall be equitable under the circumstances.

(b) Allowable Cost shall constitute the cost incurred by the contractor in the performance of this contract and accepted by the Bureau of Supplies and Accounts, Navy Department, as chargeable in accordance with "Explanation of Principles for Determination of Costs under Government Contracts, War Department-Navy Department" printed by the United States Government Printing Office, April 1942, provided that paragraphs 9 and 44 thereof shall be modified to require the deduction of all cash discounts (without excepting one percent (1%) cash discounts), or as chargeable in accordance with the following provisions of this Section, which shall control in the event of any conflict with the provisions of said "Explanation of Principles for Determination of Costs under Government Contracts, War Department-Navy Department", but shall not limit the generality thereof by implication. Allowable Cost shall include, to the extent properly allocable to the performance of this contract in accordance with accepted accounting practices, the following items:

1. All costs which have been incurred by the contractor in anticipation of this contract and prior to the signing thereof, and which, if incurred after the signing of this contract, would have been considered as items of Allowable Cost under this Section.

2. The cost of bonds and insurance incurred in compliance with the provisions of the Section herein entitled "Insurance - Liability to Third Persons", together with costs the liability for which has been assumed by the Government under such Section and under the Section hereof entitled "Property Loss or Damage".

3. Payments of taxes to the extent provided in the Section herein entitled "Federal, State and Local Taxes" and subject to the conditions provided in such Section; payments of other taxes chargeable in accordance with said "Explanation of Principles"; and payments of royalties to the extent provided in the Section herein entitled "Payment of Royalties".

## SECTION 5 - PAYMENTS

(a) Once a week (or oftener if approved by the Bureau of Supplies and Accounts) the contractor may submit to an authorized representative of the Bureau of Supplies and Accounts an invoice supported by a statement of cost incurred by the contractor



in the performance of this contract and claimed to be includable in Allowable Cost. Such invoice and statements of cost shall be in such form and reasonable detail as the Bureau of Supplies and Accounts shall require. The statements of cost shall be certified by two officers or other responsible officials of the contractor, one of whom shall be a person supervising accounting with respect to the contract.

(b) Within fifteen (15) days after submission of each interim invoice and statement of cost, the Government shall make provisional payment, except as provided below, of the amount shown thereon. At any time or times prior to final payment on account of Allowable Cost the Bureau of Supplies and Accounts shall make such audit of the invoices and statements of cost as it shall deem proper. Each provisional payment shall be subject to reduction to the extent of amounts included in the related invoice and statement of cost which are found not to constitute Allowable Cost, and shall also be subject to reduction for overpayments or to increase for underpayments on preceding invoices. On submission of the final invoice and statement of cost, the Government shall, as promptly as practicable, pay any balance of Allowable Cost.

(c) Not to exceed ninety percent (90%) of the fixed fee shall be paid in installments at the time of each provisional payment on account of Allowable Cost, the amount of each installment thus payable to be equal to the proportion of said ninety percent (90%) that the related provisional payment on account of Allowable Cost bears to the total estimated cost of performance of this contract. Upon completion of the work and its final acceptance, the unpaid balance of the fee, subject to adjustments thereof, which may be made as herein provided, shall be paid to the contractor.

(d) Any and all provisional, partial or advance payments made hereunder shall be secured, when made, by a lien in favor of the Government upon the articles and things contracted for on account of all payments so made and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government, by virtue of any other provisions of this contract or otherwise, shall have valid title to such articles, things, materials, or other property as against other creditors of the contractor. Said lien is hereby established and made paramount to all other liens under the provisions of an Act approved August 22, 1911 (Public No. 41, 62nd Congress; 37 Stat. 32; 34 U.S.C. 582).

SECTION 5A - ADVANCE PAYMENTS

(a) *Amount of Advance* - The Government shall, upon receipt of a properly certified invoice or invoices, make an advance payment or advance payments to the contractor in the aggregate amount stated in paragraph (1) below. Such additional sums may be advanced at the request of the contractor as the Finance Section, Office of Procurement and Material, Navy Department (hereinafter called the "Finance Section") may approve as necessary or appropriate.

(b) *Controlled Account* - All advance payments and, unless otherwise directed by the Finance Section, all other payments under the contract, shall be made by check payable to the contractor and marked for deposit only in the bank or banks designated in paragraph (1) below or in such other bank or banks as may be selected by the contractor and approved by the Finance Section. Such checks shall be deposited in an account or accounts (hereinafter called the "Navy Controlled Account") with such bank or banks separate and distinct from all other accounts of the contractor with any such bank. No part of the funds in the Navy Controlled Account shall be mingled with other funds of the contractor prior to withdrawal thereof from such account as hereinafter provided. The funds in the Navy Controlled Account shall be used by the contractor solely for the purposes specified in paragraph (1) below. Each withdrawal shall be made only by check of the contractor countersigned on behalf of the Government by the person authorized in paragraph (1) below or by such other person or persons as he may designate in writing. After termination of this contract not predicated upon the fault of the contractor, withdrawals may, with the consent of the Finance Section, continue as herein provided, such withdrawals to be used only for expenditures which are chargeable to the Government according to the terms of this contract and which have not been reimbursed. The Finance Section may require as a condition of such withdrawals such additional or different limitations, including provisions as to security, as it may deem for the best interest of the Government. The contractor agrees that at the time of any withdrawal from the Navy Controlled Account all materials acquired and labor performed in connection with this contract for which payment is legally due shall have been paid for or will be paid for promptly from such withdrawal or other withdrawals and, if necessary, other funds, and that after such payments are made, no lien in favor of any person other than the Government will exist with respect to any such materials or labor.

(c) *Bank Agreement* - The contractor shall secure from each bank in which any Navy Controlled Account is established an agreement substantially as follows:

\* other than payments on account of fixed fee

(Letterhead of depository bank)

Office of Procurement and Material  
Finance Section  
Navy Department  
Washington, D. C.

Dear Sirs:

"In consideration of your making an advance payment to \_\_\_\_\_ pursuant to the provisions of contract No. \_\_\_\_\_ dated \_\_\_\_\_ receipt of a copy of the advance payment provisions of which is hereby acknowledged, and the depositing of such advance payment, in whole or in part, in an account with the undersigned to be designated \_\_\_\_\_ Navy Controlled Account Number \_\_\_\_\_", the undersigned hereby agrees to grant to the Finance Section, Office of Procurement and Material, Navy Department (hereinafter called the "Finance Section"), or its duly authorized representative, access to the books and records maintained by the undersigned with respect to such account at all reasonable times and for all reasonable purposes, including (but without limiting the generality thereof) the inspection or copying of such books and records and any and all memoranda, checks, correspondence or documents appertaining thereto, and agrees to preserve said books and records for a period of six (6) years after the closing of said account. The undersigned further agrees to be bound by the provisions of said contract relating to the deposit and withdrawal of funds in the Navy Controlled Account, but shall not be responsible for the application of funds withdrawn from said account unless previously notified by the Finance Section or its duly authorized representative to suspend withdrawals therefrom by the contractor.

"The undersigned further agrees that it will promptly notify both the Finance Section and the contractor of the service of any legal papers upon it with respect to said account.

"The undersigned further agrees that the Government shall have a lien upon the credit balance in said account to secure the repayment of all advance payments made to the contractor, which lien shall be superior to any lien or claim of the undersigned upon such account by virtue of assignment to it of said contract or otherwise. In the event of appointment of a receiver, liquidator, or custodian for the property, or any substantial portion thereof, of the contractor, or any depository bank, or the institution with respect to the contractor or such bank of any proceedings under the National Bankruptcy Act, or the service of any writ of attachment, levy of execution or the commencement of other garnishment proceedings against the Navy Controlled Account, the entire credit balance in said account

shall be considered by the undersigned, in the absence of a decision to the contrary by a court of competent jurisdiction, to be the sole property of the Government.

By \_\_\_\_\_ Bank

(d) *Return of Funds* - The contractor at any time may, and, if so requested in writing by the Government, shall, return to the Government such part of the unliquidated balance of advance payments in the Navy Controlled Account as shall be, in the opinion of the contractor (or, in the case of a request by the Government, in the opinion of the Government), in excess of requirements. The contractor may at any time repay all sums advanced to it hereunder.

(e) *Liquidation* - The advance payments made hereunder shall be liquidated in the manner set forth in paragraph (1) below and as hereinafter provided. If and when the total amount of advance payments made under this contract has been liquidated as there set forth or by the repayment thereof to the Government, or otherwise, and, unless otherwise directed by the Finance Section, when the work under the contract has been completed, the remaining funds, if any, in such Navy Controlled Account shall, upon notification in writing to such bank by the disbursing officer charged with the duty of making payments under this contract, be free and clear of any claim of the Government whatsoever and may be withdrawn by the contractor without countersignature or other restriction. If, upon completion of the contract or the termination thereof, the advance payments made to the contractor hereunder have not been fully liquidated, the balance thereof shall be deducted from any payments otherwise due to the contractor, and, if the sum or sums due the contractor be insufficient to cover such balance, the deficiency shall be paid by the contractor to the Government. If the contract is terminated for fault of the contractor, the entire credit balance then in the Navy Controlled Account may, upon notification in writing to such bank by the disbursing officer charged with the duty of making payments under this contract, be withdrawn by check payable to the Treasurer of the United States and signed solely by the person authorized to countersign checks as provided herein, and the amount so withdrawn shall be applied in liquidation of all advance payments then outstanding hereunder.

(f) *Interest Charge* - The contractor shall be required to pay interest to the Government upon the advance payments made under this contract at the rate of two and one-half percent (2½%) per annum. Such interest shall accrue from day to day commencing on the date upon which the Government's check is drawn, and shall be computed on the daily unliquidated balance of the advance payments, and shall be deducted by the Government from any and all payments due to the contractor under this contract, provided that, if this is a cost-plus-fixed-fee contract, such interest shall be deducted from payments on account of the fixed fee. Interest shall cease to accrue to the extent and as of the date payments due to the contractor are applied in liquidation of the advance payments and, if there is a balance of such payments due to the contractor after such application, such application shall be deemed to occur as of the date the disbursing officer charged with the duty of making disbursements under the contract draws a check or checks for such balance. If advance payments are repaid other than by deductions from payments due to the contractor, interest shall cease to accrue on the sums so paid on the date of the receipt of payment by the Government. If the full amount of such interest is not so deducted, the contractor shall pay the deficiency to the Government upon the completion or termination of this contract. If the contract is terminated in whole and such termination is not predicated upon the fault of the contractor, further interest on advance payments then outstanding shall, upon receipt by the disbursing officer charged with the duty of making payments under this contract of a written request signed by the contractor, cease to accrue. Notwithstanding any other provisions herein, if the contractor fails to pay to the Government any sums required to be paid under paragraphs (d) and (e) immediately preceding within fifteen (15) days after the date of a request by the Government for such payment, interest shall be charged thereon at the rate of six percent (6%) per annum.

(g) *Lien on Navy Controlled Account* - The Government shall have a first lien upon the credit balance in the Navy Controlled Account, superior to any lien or right of the bank or any other person, which lien shall secure the repayment of any advance payments made by the Government to the contractor. In the event of appointment of a receiver, liquidator, or custodian for the property, or any substantial portion thereof, of the contractor, or any depository bank, or the institution with respect to the contractor or such bank of any proceedings under the National Bankruptcy Act, or the service of any writ of attachment, levy of execution or the commencement of other garnishment proceedings against the Navy Controlled Account, the entire credit balance in said account shall immediately and automatically become the sole property of the Government and may, at the option of the Finance Section, be withdrawn by check payable to the Treasurer of the United States and signed by the person authorized to countersign checks as provided herein, and the amount so withdrawn shall be applied in liquidation of all advance payments then outstanding hereunder.

(h) *Lien on Property under Contract* - All partial or advance payments made under this contract shall be secured, when made, by a lien in favor of the Government upon the articles and things contracted for and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government, by virtue of any other provision of this contract, or otherwise, shall have valid title to such articles, things, materials or other property as against other creditors of the contractor. If for

any reason such property is not identified by marking or segregation, the Government shall be deemed to have a lien upon any mass of property of which such property constitutes a part to the extent of the portion of such mass represented by such property. Said lien is hereby established and made paramount to all other liens under the provisions of an Act approved August 22, 1911 (Public No. 41, 62nd Congress; 37 Stat. 32; 34 U. S. C. 582).

(i) *Identification of Property Subject to Lien* - The contractor agrees that, to the extent determined necessary and practical by the person authorized in paragraph (1) below to countersign checks, it will identify by marking or segregation all property which is subjected to a lien in favor of the Government by any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been allocated to this contract. In any event the contractor shall maintain adequate accounting control over such property on its books and records. If at any time during progress of the work under this contract it becomes necessary to deliver to a third person any property upon which the Government has a lien as aforesaid, the contractor shall notify such third person of the existence of such lien, and shall obtain from such third person an acknowledgment of the existence of such lien upon all such property so delivered.

(j) *Financial Information* - The contractor shall furnish to the Finance Section balance sheets and profit and loss statements ~~quarterly~~ <sup>semi-annually</sup> or at such other intervals as the Finance Section may require, and such other financial information concerning the operation of the contractor's business as the Finance Section may request. The contractor shall, at all times, afford to the Navy Department or its duly authorized representatives proper facilities for the inspection and audit of the contractor's accounts.

(k) *Insurance* - Until work under this contract has been completed and all advance payments made hereunder have been liquidated, the contractor shall, if this is a fixed-price contract, and unless a written waiver is obtained from the Finance Section:

(1) Keep its own plant and equipment insured at all times with responsible insurance carriers against fire and other hazards in such manner and to the extent that like properties are usually insured by others operating plants and properties of similar character in the same general locality, and maintain adequate insurance at all times with responsible insurance carriers against liability on account of damage to persons or property and under all applicable workmen's compensation laws;

(2) Maintain insurance upon any materials, parts, assemblies, subassemblies, supplies, equipment and other property upon which a lien exists in favor of the Government pursuant to the terms of this contract; the policy or policies shall contain a loss payable clause making losses payable to the Secretary of the Navy or order; and any payments thereunder shall inure to the benefit of the Government to the extent of any loss suffered by the Government and to the contractor as to any remaining balance.

(l) *Other Provisions* -

(a) Amount of Advances: None

(b) Depository: Bankers Trust Company, New York

(c) Purpose for which funds may be withdrawn from Navy Controlled Account  
NON(a) 1679: For the purpose of making payments for materials, including delivery charges, and direct labor and indirect expenses required in the performance of this contract and properly chargeable thereto or to reimburse the contractor for expenditures made for such purposes after the date of the contract.

(d) Person authorized to countersign checks: Bureau of Aeronautics Representative.

(e) Liquidation: When the sum of the partial payments of allowable costs made to the contractor hereunder plus the unliquidated amount of advance payments made to the contractor under this contract is equal to the estimated cost of performance of the contract, as revised from time to time by the contracting officer, the Government shall withhold further payments of the contractor's allowable costs hereunder and apply the amounts thereof against the contractor's obligation to repay the advance payments made under this contract until such advance payments have been fully liquidated.

(f) Advance payments to subcontractors: The contractor may make advance payments to subcontractors and vendors out of the Navy Controlled account for purposes of the performance of this contract, provided that, except with the approval of the Finance Section, there shall not be outstanding hereunder at any one time unliquidated advance payments to a single subcontractor or vendor exceeding the greater of (a) 10% of the amount remaining to be paid by the contractor to the subcontractor, or (b) the lesser of \$250,000 or 30% of the amount remaining to be paid by the contractor to the subcontractor; provided further, that there shall not be outstanding hereunder at any one time unliquidated advance payments to subcontractors and vendors in an aggregate amount in excess of \$5,000,000 exclusive of any advance payments specifically permitted by the Finance Section to be excluded in determining said amount. Any such approval or permission, if given, shall not be deemed to relieve the contractor of its responsibility for the payment of the entire amount of advance payments made to it under this contract. The contractor shall notify the Finance Section promptly of each advance payment made by the contractor hereunder, and shall submit for prior approval the general form of advance payment clause to be used.

## SECTION 6 - DEMONSTRATIONS

(a) Each airplane of Item 3 shall be demonstrated by the contractor prior to delivery by ground test in accordance with Specification E-43 and by flight test to insure proper alignment and satisfactory functioning of the airplane in the air. Said flight shall be of two (2) hours duration unless a shorter duration is specified by the Bureau of Aeronautics Representative.

(b) Flight demonstrations under paragraph (a) shall be conducted by pilots first approved in writing by the Bureau of Aeronautics Representative, and only in this case will the Government assume the risk of loss or damage arising out of the demonstrations in accordance with the provisions of the Sections hereof entitled "Property Loss or Damage" and "Insurance - Liability to Third Persons". If any such demonstration is conducted by any other person, the Government will not assume any liability, and the contractor shall be liable for any loss or damage, including loss of or damage to the airplane or its contents, resulting from such demonstration.

## SECTION 7 - FINAL ACCEPTANCE

Item 1: Design Data and Drawings will be accepted upon receipt and approval of all portions thereof by the Navy Department (Bureau of Aeronautics).

Item 2: Tests and Miscellaneous Data will be accepted upon receipt and approval of all parts thereof by the Navy Department (Bureau of Aeronautics). The Static Test Article will be accepted upon satisfactory completion of final inspection by the Bureau of Aeronautics Representative.

Item 3: Each of the airplanes will be finally accepted after satisfactory completion of the (a) demonstration by the contractor pursuant to Section 6 for the airplane concerned, and (b) the final inspection of the airplane concerned by the Bureau of Aeronautics Representative.

Item 4: Spare parts will be finally accepted in accordance with the delivery schedule specified and upon satisfactory completion of final inspection of the parts concerned by the Bureau of Aeronautics Representative.

Item 5: Final Corrected Information and Drawings will be accepted upon receipt and approval of all portions thereof by the Navy Department (Bureau of Aeronautics).

#### SECTION 8 - GUARANTEES

(a) The contractor guarantees that the airplanes under the applicable load conditions specified in Specification SD-294-1, will meet the following minimum requirements:

- (1) That each airplane, as a fighter airplane, will be satisfactory in all respects for Naval service use as a fighter airplane;
- (2) That each airplane will be in correct flying balance, controllable and positively stable in the air about each of the three major axes with either free or fixed longitudinal, lateral, and directional controls;
- (3) That each airplane will be controllable and stable on the ground;
- (4) That each airplane will be satisfactory in taking off from and landing on a carrier;
- (5) That the weight empty of each airplane, as defined in Specification SD-294-1, paragraph 105a, will not exceed 15,275 pounds.
- (6) That the performance of each airplane as a fighter airplane with the useful load specified in paragraph 104a, Specification SD-294-1, will be:

Maximum speed at engine military rated power  
(five minutes maximum duration) at airplane  
critical altitude of 19,000 feet -- not less  
than 406 MPH.

Maximum speed at engine normal rated power at  
airplane critical altitude of 21,500 feet --  
not less than 403 MPH;

Stalling speed at sea level, normal load, without  
power, -- not more than 91 MPH;

Service ceiling, starting with normal load and us-  
ing normal power -- not less than 31,200 feet.

Take-off distance in a 25 knot wind -- not more  
than 286 feet;

Initial rate of climb at sea level using take-off power, not less than 3590 feet per minute.

(b) Airplane critical altitude is defined as the maximum altitude (corrected to standard conditions) at which the engine, in the airplane, develops its rated horse power at the rated RPM, with the throttle wide open.

(c) The above performance guarantees are made with the understanding that the R-2800-22 engines to be furnished by the Government, operated with domestic aviation gasoline of 100 octane number in accordance with Specification AN-F-28, will deliver (manufacturer's calibration):

Normal Rating

1700 BHP at 2600 RPM from sea level to 7,000 feet altitude

1450 BHP at 2600 RPM at 10,500 feet altitude

Military Rating

2100 BHP at 2800 RPM from sea level to 1,000 feet altitude

1600 BHP at 2800 RPM at 10,000 feet altitude

Take-off

2100 BHP at 2800 RPM

The weight and performances stated above are estimates only and contractor agrees to guarantee the weight and performance of the airplanes delivered under this contract to be the same, within a permitted variation of one (1%) percent, as that of the second XF7F-1 airplane (serial #03550) as determined by trials thereof at the same gross weight.

(d) The contractor and the Navy Department agree that, if the brake horsepower of the engines described in the preceding paragraph, as determined by official dynamometer tests conducted in the automatic lean carburetor position, deviates from the rated horsepower given in the preceding paragraph, the performance guarantees shall be modified for the horsepower variation by the appropriate performance calculation procedure.

(e) The guaranteed weight empty set forth above shall be adjusted for increases or decreases in weight caused by changes in accordance with the Section hereof entitled "Changes" and for overweight or underweight of Government Furnished Equipment as compared with the weights thereof set forth in the specification pursuant to which the airplanes are to be furnished. Airplane weight empty shall be determined in accordance with the procedure established in Specification AN-W-11, dated May 10, 1943.

(f) The contractor further guarantees that the articles provided for under this contract will conform to the specifications referred to herein and will be free from defects in material and workmanship, subject to the provisions of the next Section hereof.



## SECTION 9 - CORRECTION OF DEFECTS

The contractor shall remedy by correction or replacement any defects in design, installation, material or construction, or any other failures to comply with the guarantees, provided that as to defective articles finally accepted the Government shall have notified the contractor of such defects or failures not later than six (6) months after such final acceptance. Such correction or replacement shall be without cost to the Government if such defects or failures are due to wilful disregard of instructions, fraud or negligence of the contractor. Wilful disregard of instructions, fraud or negligence of the contractor's employees other than executives, department managers, superintendents, foremen and similar supervisory employees shall not be the responsibility of the contractor hereunder, except where the contractor has failed to exercise reasonable care in the selection and employment of individual workers involved, or where such persons have been retained after the contractor has reason to believe that they are careless or otherwise unqualified. Where correction or replacement is necessitated by defects or failures due to causes other than the foregoing, such correction or replacement shall be made by the contractor upon request of the Government, and the cost thereof shall be included in Allowable Cost determined as provided in the Section hereof entitled "Compensation", but no additional fee shall be payable with respect thereto.

## SECTION 10 - GOVERNMENT FURNISHED EQUIPMENT

(a) The Government shall furnish for installation in the airplanes the equipment listed as Government Furnished Equipment in the applicable Detail Specification, except that the Bureau of Aeronautics reserves the right to furnish only drawings of such equipment and instruct the contractor to make provision for installation of such equipment in lieu of installing it. Title to Government Furnished Equipment shall remain in the Government.

(b) The delivery schedule for the articles to be furnished under this contract is based upon the expectation that such Government Furnished Equipment will be delivered to the contractor in sufficient time to enable it to meet said delivery schedule. In the event that any of the Government Furnished Equipment is not delivered to the contractor in sufficient time to enable it to meet the delivery schedule, the contracting officer upon written request of the contractor shall make a determination of the delay occasioned the contractor thereby and shall grant to the contractor a corresponding extension of time for the completion of performance.

(c) Upon the completion or termination of this contract, the contractor shall deliver to the Government at such place as shall be specified by the Bureau of Aeronautics Representative any of the Government Furnished Equipment not consumed in the manufacture (or Government-directed test) of the articles covered by the terms of this contract or not incorporated in such articles or not already paid for by the contractor, subject, however, to the provisions of the Section hereof entitled "Property Loss or Damage".

## SECTION 11 - INTERCHANGEABILITY

Subject to the provisions of the Section hereof entitled "Changes", the contractor shall use wherever possible in the manufacture of the articles to be furnished under the contract suitable appliances, jigs, fixtures, gauges and other devices and methods of manufacture which are conducive to interchangeability of parts and uniformity of the product. The contractor will comply with Specification AN-1-21 dated 14 September 1943.

## SECTION 12 - SUBCONTRACTS AND PURCHASE ORDERS

(a) at least ten (10) days before entering into any subcontract on a cost-plus-fixed-fee basis or entering into any other subcontract or issuing any purchase order exceeding \$100,000, the contractor shall notify the Bureau of Aeronautics Representative in writing giving the name and location of the subcontractor or vendor, the parts

or materials to be purchased, the proposed delivery schedule, if known, and the fixed price or estimated cost and fixed fee to be paid; provided, however, that the Bureau of Aeronautics Representative may at any time waive, generally or specifically, the requirement of giving any such notice. The failure of the Bureau of Aeronautics Representative to raise objection to any matter contained in such notification shall not constitute an approval or disapproval thereof. It is not contemplated that the contractor will obtain formal competitive bids from prospective subcontractors or vendors.

(b) The contractor will give the Government or its representatives immediate notice of any suit or action filed or any claim made against the contractor by any subcontractor or vendor relating in any way to this contract and with respect to which the contractor might be entitled to reimbursement from the Government.

#### SECTION 13 - PATENTS

(a) The contractor shall hold and save the Government, its officers, agents, servants, and employees, harmless from patent liability of any nature or kind, including costs and expenses, for or on account of any patented or unpatented invention made or used in the performance of this contract, including the use or disposal thereof by or on behalf of the Government: Provided, That the foregoing shall not apply to inventions covered by applications for United States Letters Patent which, on the date of execution of this contract are being maintained in secrecy under the provisions of Title 35, U. S. Code (1940 ed.), section 42, as amended; Provided, further, that this article is not, and shall not be construed to be, applicable to any infringement or alleged infringement of United States Letters Patent which results from the contractor complying with written specifications furnished or approved by the Government, or where infringement is occasioned by the use of an apparatus patent due to the fabrication, installation, or operation of apparatus in accordance with plans and specifications approved by the Government.

(b) The contractor shall promptly notify the Government in writing of any and all claims of infringement relating to this contract that may be brought to the contractor's attention and if the contract shall not have been completed, the contractor shall make such changes as may be required by the Government; and in case of litigation on account thereof, the contractor shall assist the Government at the latter's expense, save for services of the contractor's employees, in furnishing such evidence as to the use of the patents and other matters of fact as may be required by the Government in such litigation.

#### SECTION 14 - NEW FEATURES OF DESIGN

If at any time during the performance of this contract the contractor develops new features in the design of the articles purchased hereunder, the contractor will promptly give the contracting officer full information with respect thereto, and until the end of the present war will not publish, divulge or sell anything pertaining thereto unless specifically authorized so to do by the contracting officer.

#### SECTION 15 - TRANSFER OF CONTRACT AND ASSIGNMENT OF CONTRACTOR'S CLAIMS

(a) Neither this contract, nor any interest herein except as otherwise provided in this Section, shall be transferred by the contractor to any party or parties,

(b) Claims for moneys due or to become due to the contractor from the Government arising out of this contract may be assigned to any bank, trust company, or other financing institution, including any Federal agency authorized to make loans. Any such assignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract. In the event of any such assignment, the assignee thereof shall file written notice of the assignment, together with a true copy of the instrument of assignment with (1) the General Accounting Office of the Government, (2) the contracting officer, (3) the surety or sureties upon the bond or bonds, if any, in connection with this contract, and (4) the disbursing officer designated to make payments under this contract.

(c) Any claim under this contract which has been assigned pursuant to the foregoing provisions of this section may be further assigned and reassigned to a bank, trust company, or other financing institution, including any Federal agency authorized to make loans. In the event of such further assignment or reassignment the assignee shall file one signed copy of a written notice of the further assignment or reassignment together with a true copy of the instrument of further assignment or reassignment with the contractor; and shall file four copies of such written notice and one copy of such instrument with each of the parties designated in the preceding paragraph.

(d) Payments to an assignee of any claims arising under this contract shall not be subject to reduction or set-off for any indebtedness of the contractor to the United States arising independently of this contract.

(e) Information contained in plans, specifications, or any similar document, relating to the work under this contract and marked "SECRET", "CONFIDENTIAL", or "RESTRICTED", shall not, in connection with the assignment of any claim under the contract, be communicated, transmitted, or disclosed to any person not otherwise entitled to receive it, except with the prior consent of the contracting officer or his duly authorized representative in each instance.

SECTION 16 INSPECTION

(a) The contractor shall provide a complete and acceptable inspection system covering the inspection of all materials, fabricating methods, jigs, fixtures, dies, finished parts and completed airplanes. This system shall be satisfactory to the Bureau of Aeronautics Representative. The contractor shall provide in its subcontracts hereunder that a similar system shall be installed by the subcontractor as required by the Bureau of Aeronautics Representative.

(b) All material and workmanship shall be subject to inspection and tests by the Government during manufacture and at all other times and places, to the extent practicable. "General Specifications for Inspection of Material", issued by the Navy Department, July 1, 1941, shall form a part hereof. In case any articles are found to be defective or otherwise not in conformity with the guarantees, the Government shall have the right to reject such articles, or require their correction or replacement as set forth in the Section hereof entitled "Correction of Defects". Rejected articles, or articles requiring correction, shall be withdrawn until corrected, reinspected and accepted by the Bureau of Aeronautics Representative. The inspector may require that articles requiring correction be submitted to the inspector for his recommendation before corrections are made. Rejected articles not suitable for correction shall be so segregated by the contractor as to preclude possibility of use under this contract.

(c) If inspection and test, whether preliminary or final, is made on the premises of the contractor or subcontractors, the contractor shall furnish or require subcontractors to furnish all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. Special and performance tests shall be as described in the specifications.

(d) Final inspection will be made at the point of delivery, unless otherwise stated.

SECTION 17 - WEIGHT CONTROL

A system of weight control during design and construction satisfactory to the Bureau of Aeronautics Representative shall be provided by the contractor in accordance with Specification AN-W-11 dated May 10, 1943.

SECTION 18 - DUPLICATION OF DESIGN

The Government shall have the right, without further compensation to the contractor, for the purpose of maintenance and repair and for replacement of parts, (a) to make, have made or use any number of parts according to the designs, drawings, plans and specifications owned or controlled by the contractor and referred to in this contract; (b) to duplicate and reproduce the patterns and forging and extrusion dies used for producing such parts; (c) to sell or otherwise dispose of said parts, or articles in which said parts are incorporated, and such patterns and forging and extrusion dies, according to law; and (d) to duplicate and use said designs, drawings, plans and specifications. Nothing in this Section shall apply to design or patent rights not owned or controlled by the contractor.

## SECTION 19 - CHANGES

(a) The specifications, drawings, and designs may be changed at any time by agreement in writing between the contractor and the contracting officer, or by order of the contracting officer, as hereinafter provided. Each desired change shall be requested in writing by the party desiring it. In the absence of agreement, the final decision upon any such request shall be made by the contracting officer in writing, provided he shall have accorded the contractor an opportunity for a hearing upon reasonable prior notice. Pending final decision on the requested change, production and acceptance shall proceed as if no request for a change had been made. In the event the contractor prior to the completion of deliveries hereunder develops (1) any improvement in the articles herein purchased or in any of the parts therefor, or (2) any substitute for any of such parts, he shall promptly give full information with respect thereto to the contracting officer. Changes agreed to or ordered by the contracting officer under this Section shall be incorporated as rapidly as practicable (but in such manner as not unduly to interfere with production schedules unless authorized by the contracting officer). Changes may be incorporated upon authorization of the Bureau of Aeronautics in advance of formal action under paragraph (b) below.

(b) When changes are proposed by either party, the contractor shall promptly submit to the contracting officer, via the Bureau of Aeronautics Representative, an itemized statement giving as close an estimate as possible of the effect of the proposed change on estimated cost, delivery dates, useful load, weight empty guarantee and performance guarantee. Changes agreed to or ordered under this Section shall, where appropriate, include accompanying revisions of the cost estimate, fixed fee, delivery dates, useful load, weight empty guarantee and performance guarantee and shall be reduced to writing and shall constitute an amendment to the contract. When the effect of any change does not increase or decrease the maximum speed by 1.0 MPH, minimum speed by 0.5 MPH or, with respect to planes equipped for carrier operation, take-off distance in a 25-knot wind by 10.0 feet, no revision in the performance guarantee will be made; provided, however, that when the accumulated effect of several such changes increases or decreases the maximum or minimum speeds or take-off distance in the amounts above stated, the contractor shall submit a complete revised performance guarantee, which upon acceptance by the contracting officer shall constitute an amendment to the contract. Immediately prior to demonstration and trials of the first airplane hereunder, the contractor shall submit a final proposed revision of the performance guarantee covering any change in the engine rating, any overweight or underweight of Government Furnished Equipment, or any negligible changes not previously considered, which upon acceptance by the contracting officer shall constitute an amendment to the contract. Detailed calculations shall be furnished by the contractor to substantiate all proposed revisions of the performance guarantee.

## SECTION 20 - ELIGIBILITY

The contractor represents that it is eligible to enter into this contract under the provisions of Public Resolution No. 54, 76th Congress, approved 4 November 1939.

## SECTION 21 - PAYMENT OF ROYALTIES

The contractor shall not pay any sum for royalties or patent rights not included in the ordinary purchase price of parts embodied in said airplanes or parts, if any, purchased hereunder, unless and until duly authorized to make such payments by the Government, except royalties payable under the existing license agreements, if any, listed (with the patent numbers and the serial numbers of the patent applications covered by said agreements and the rates of royalty thereunder) in Exhibit A hereto. Recognition of such royalties as are payable pursuant to such license agreements as items of Allowable Cost hereunder shall in no way constitute a recognition by the Government of the validity of any of the patents involved, nor shall any such recognition constitute a waiver of any rights or defenses respecting such patents.

SECTION 22 - TITLE AND NOTIFICATION

(a) The title to all materials, parts, assemblies, sub-assemblies, supplies, equipment and other property for the cost of which the contractor is entitled to be reimbursed hereunder, except property to which the Government shall already have title, shall automatically pass to and vest in the Government (1) in the case of such property which is purchased by the contractor for the performance of this contract, upon delivery to the contractor at the contractor's plant or at the plant of the supplier on f.o.b. purchases if the Bureau of Aeronautics Representative at the contractor's plant shall have given his approval or (2) in the case of property not so purchased, upon the allocation thereof to the contract by the commencement by the contractor of processing or use thereof or otherwise. Such passage and vesting of title shall not impair any right which the Government might otherwise have under this contract, including but not limited to the right to reject any supplies hereunder, and shall not relieve the contractor of any of its obligations under this contract.

(b) The contractor agrees that it will, to the extent determined necessary and practical by the Bureau of Aeronautics Representative, identify such property by marking or segregation in such a way as to indicate its ownership by the Government and its allocation to this contract. In any event the contractor shall maintain adequate accounting control over such property on its books and records.

(c) Subject to the provisions of the Section hereof entitled "Property Loss or Damage", following the completion of the contract all such property to which the Government shall have taken title hereunder (including tools, dies, jigs, fixtures, patterns, etc.), and which has not been consumed in the performance of the contract, disposed of in accordance with paragraph (d) hereof or delivered to the Government, shall be retained by the contractor for use under other contracts with the Government or delivered to the Government f.o.b. the contractor's plant as the Bureau of Aeronautics Representative may approve or specify.

(d) It is contemplated that all such property will be used by the contractor for the performance of this contract or of other cost-plus-fixed-fee contracts with the Navy Department. However, as to any such property not immediately essential to the performance of this contract, including salvage or scrap material, the contractor with the written consent of the Bureau of Aeronautics Representative may, and at the inspector's written direction shall, sell, lend or transfer or otherwise dispose of such property free and clear of any and all right, title or interest of the Government in and to the property transferred to such persons and upon such terms and conditions as the inspector may approve, ratify or direct. The proceeds, if any, of any of such transfers and dispositions shall be retained by the contractor and shall be applied in reduction of payments otherwise due to the contractor under this contract or, if this contract has been completed, under other contracts with the Government.

SECTION 23 - PROPERTY LOSS OR DAMAGE

(a) The Government has requested that the contractor not carry, nor incur the expense of, any insurance against any form of loss of or damage to equipment or materials furnished by the Government or any property to which the Government has taken and continues to hold title hereunder, including without limitation Government airplanes in the possession of the contractor for examination, pilot training, flight testing, ferrying, repair or other purposes, and no reimbursement will be allowed for such insurance premium expense.

(b) In view of the foregoing, the Government assumes the risk of loss or damage to such property, including expenses incidental to such loss or damage. If the Government determines that the repair or replacement of any such property is necessary or advisable for the efficient performance of this contract, the contractor shall make such repair or replacement and shall be reimbursed by the Government for the cost of so doing; provided, however, that in the case of Government-furnished material or equipment, the Government shall make such repair or replacement unless the contractor undertakes such repair with the approval of the Bureau of Aeronautics Representative. Notwithstanding the foregoing assumption of risk, the contractor shall be responsible for any loss or damage for which it is expressly made responsible under any other provision of this contract, or which results from wilful misconduct or lack of good faith on the part of any of the contractor's directors, officers, or any of its representatives having supervision or direction of all or substantially all of the contractor's business or all or substantially all of any plant used by the contractor in the performance of this contract.

(c) Notwithstanding the foregoing provisions, if any property, title to which shall be in the Government, shall be in the plant of a subcontractor in connection with the work to be done under this contract, the contractor shall require that the subcontractor shall carry insurance (fire and extended coverage) against the usual risks of loss of such property while in the possession of such subcontractor, payable to the subcontractor, the contractor and the Government as their interests may appear.

## SECTION 24 - INSURANCE - LIABILITY TO THIRD PERSONS

(a) The contractor shall procure and thereafter maintain workmen's compensation, employer's liability and bodily injury liability insurance, with respect to work done under this contract, and such other liability insurance with respect to work done under this contract as the Government may from time to time require or approve, except that the contractor may self-insure with respect to Workmen's Compensation claims pursuant to statutory authority. All such insurance shall be in such form, in such amounts, for such periods of time, and with such insurers, as the Government may from time to time require or approve.

(b) The contractor shall be reimbursed (1) for the cost of such insurance of the character described in paragraph (a) of this Section as may be required or approved by the Government, (2) for the portion allocable to this contract of the reasonable cost of insurance covering the contractor's property or property for which the contractor is responsible to someone other than the Government (the Government for these purposes excludes Defense Plant Corporation) and which is used or to be used in the performance of this contract, and (3) for liabilities to third persons for loss of or damage to property, death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, 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 the express terms of this contract, or (ii) with respect to which the contractor has failed to insure as required or approved by the Government, or (iii) which result from wilful misconduct or lack of good faith on the part of any of the contractor's directors, officers or of any of its other representatives having supervision or direction of all or substantially all of the contractor's business or all or substantially all of any plant used by the contractor in the performance of this contract.

(c) The contractor shall give the Government or its representatives immediate notice of any suit or action filed, or any claim made, against the contractor arising out of the performance of this contract, the cost and expense of which is 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 insurance coverage. The contractor 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 insurance 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, 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.

## SECTION 25 - USE OF PATTERNS AND FORGING AND EXTRUSION DIES

The Navy Department shall have the right at any time within seven (7) years after the date of this contract to use, or have used, in the plant of the contractor or its suppliers where generally located, any or all patterns and forging and extrusion dies which are owned or controlled by the contractor and which are used for producing parts incorporated in the airplanes to be delivered under this contract. The Navy Department may exercise such right whenever such fabrication of materials may be desired by the Department, provided the Department gives the contractor reasonable (thirty (30) days where practicable) notice prior to the commencement of the fabrication of such material and provided such use by the Department does not conflict with the contractor's requirements for materials fabricated by such patterns and dies. The contractor shall have the right to change at any time and from time to time any or all of the above mentioned patterns and dies to provide for normal changes in design or manufacturing processes instigated by the contractor. The contractor shall receive reasonable compensation for use, breakage, wear, loss or deterioration of patterns and dies when used in accordance with provisions of this Section.

## SECTION 26 - EXCUSABLE DELAYS

The contractor shall not be charged with any liability for failure or delay in performance when such failure or delay (herein called an Excusable Delay) is due to causes beyond the control and without the fault or negligence of the contractor, including but not restricted to (1) acts of God or of the public enemy, (2) acts of the Government of the United States or any state or political subdivision thereof, (3) fires, floods, explosions, earthquakes or other catastrophes, (4) epidemics, (5) quarantine restrictions, (6) strikes, (7) freight embargoes, (8) unusually severe weather, (9) inability of the contractor to obtain equipment or material when the contracting officer determines that such inability is due to the operation of governmental priorities, preferences or allocations of equipment or material, or (10) delays of a subcontractor or supplier in furnishing material owing to one or more of the foregoing causes, unless the contracting officer shall determine that the materials or supplies to be furnished under the subcontract are procurable from other sources, and shall have ordered the contractor to procure such materials or supplies from other sources. If the contractor shall fail to notify the contracting officer in writing of the cause of any such failure or delay within twenty (20) days (or such longer period as the contracting officer may approve) from the date it appears that such cause will delay deliveries under this contract, the contractor shall lose all right to an extension of time for delivery by reason of such cause. Upon request of the contractor the contracting officer shall ascertain the facts and extent of failure or delay and, if he shall find that the failure or delay was occasioned by any one or more of the said causes, he shall revise the delivery schedule accordingly.

SECTION 27 - TERMINATION

(a) The performance of work under this contract may be terminated by the contracting officer as a whole or from time to time in part whenever

- (1) The contracting officer shall determine that such termination is for the best interests of the Government; or
- (2) The contractor refuses or fails to make delivery of the articles or materials to be furnished under this contract in accordance with the specifications, drawings and designs within the time specified in this contract, or within any extension of such time by the contracting officer, and such refusal or failure is not due to an Excusable Delay as herein defined; or
- (3) The contractor makes any defaults in performance under this contract other than those covered by subparagraph (2) hereof, and fails to proceed to cure such defaults within a period of ten (10) days after receipt from the contracting officer of a written Notice of Default specifying the default;

provided, however, that if termination of this contract is simultaneous with, a part of, or in connection with a general termination of (i) all or substantially all of a group or class of contracts made by the Navy Department for the same product or for closely related products or (ii) war contracts at, about the time of, or following the cessation of the present hostilities, or any major part thereof, such termination shall be deemed to be for the cause set forth in (a) (1) above unless the contracting officer finds that the contractor is then in gross or wilful default under this contract.

Termination of work hereunder shall be effected by delivery to the contractor of a Notice of Termination specifying the cause of termination, the extent to which performance of work under the contract shall be terminated, and the date upon which termination shall become effective, which date shall not be earlier than the date of receipt of the Notice of Termination.

(b) After receipt of a Notice of Termination and except as otherwise directed by the contracting officer, the contractor shall (1) terminate 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 portions of the work under the contract as may not be terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of any 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; (5) settle all claims arising out of such termination of orders and subcontracts with the approval or ratification of the contracting officer to the extent that he may require, which approval or ratification shall be final for all the purposes of this Section; (6) transfer title and deliver to the Government in the manner, to the extent and at the times directed by the contracting officer (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 in the Notice of Termination, and (ii) the plans, drawings, information and other property which, if the contract had been completed, would be required to be furnished to the Government; (7) use his best efforts to sell in the manner, to the extent, at the time, and at the price or prices directed or authorized by the contracting officer, any property of the types referred to in subdivision (6) of this paragraph provided, however, that the contractor (i) shall not be required to extend credit to any purchaser and (ii) may retain any such property at a price or prices approved by the contracting officer; (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 protection and preservation of the property, which is in the possession of the contractor and in which the Government has or may acquire an interest.

(c) The contractor and the contracting officer may agree upon the whole or any part of the amount or amounts to be paid to the contractor by reason of the total or partial termination of work pursuant to this Section, which amount or amounts may include a reasonable allowance for profit, and the Government shall pay the agreed amount or amounts. Nothing in paragraph (d) of this Section prescribing the amount to be paid to the contractor in the event of failure of the contractor and the contracting officer to agree upon the whole amount to be paid to the contractor by reason of the termination of work pursuant to this Section shall be deemed to limit, restrict or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the contractor pursuant to this paragraph (c).



(d) In the event of the failure of the contractor and contracting officer to agree as provided in paragraph (c) upon the whole amount to be paid to the contractor by reason of the termination of work pursuant to this Section, the Government, but without duplication of any amounts agreed upon in accordance with paragraph (c), shall pay to the contractor the following amounts:

- (1) The Allowable Cost determined in accordance with the provisions set forth in the Section hereof entitled "Compensation" incurred by the contractor in the performance of this contract, whether prior to the effective date of termination or under the terms of the Notice of Termination, or pending the termination of work as required under paragraph (b) (1) hereof, together with the same proportion of the fixed fee, up to but not exceeding 100% thereof, as such Allowable Cost bears to the total estimated cost of performance of this contract;
- (2) 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;
- (3) The reasonable cost of the preservation and protection of property incurred pursuant to paragraph (b) (9) hereof; and
- (4) Any other reasonable cost incidental to termination of work under this contract, including expense incidental to the determination of the amount due to the contractor as the result of the termination of work under this contract;

provided, however, that with respect to a contract terminated as a whole or in part for either of the causes set forth in paragraphs (a) (2) or (a) (3) hereof the fixed fee payable to the contractor shall be only that portion of the total fixed fee that the estimated cost of completed articles delivered and accepted bears to the total estimated cost.

(e) The obligation of the Government to make any of the payments required under paragraph (c) hereof shall be subject to (1) any claim which the Government may have against the contractor in connection with this contract, (2) deductions for any advance payments, progress payments, unit payments or partial payments made to the contractor under or in connection with this contract, and (3) reasonable deductions by the Government on account of defects in the materials or workmanship of completed or partially completed work delivered hereunder or other defaults under this contract.

(f) In the event that performance of work under the contract is terminated in part and the contractor shall show to the satisfaction of the contracting officer that the partial termination will result in increased costs of performance for the unperformed part of the work, appropriate upward adjustment will be made by amendment of the contract in the estimated unit costs and in the fixed fee remaining to be paid to the contractor.

(g) The Government shall make partial payments and payments on account, from time to time, of the amounts to which the contractor shall be entitled under this Section, whether determined by agreement or otherwise, 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.

(h) The provisions of this Section governing termination shall be without prejudice to the rights of the contractor and the Government to proceed by common consent in accordance with any Act of Congress that may hereafter be passed in respect thereof or in accordance with any general program relating to the termination of supply contracts which may hereafter be approved by the Secretary of the Navy.

SECTION 28 - WALSH-HEALEY ACT

There are hereby incorporated herein by reference the representations and stipulations pursuant to Public Act No. 846, Seventy-fourth Congress, as set forth in Article I of Part I of Regulations No. 504, issued by the Secretary of Labor pursuant to such Act, as from time to time amended.

SECTION 29 - FEDERAL, STATE AND LOCAL TAXES

(a) Upon request of the contractor, the Government will issue appropriate tax exemption certificates or furnish other proof of exemption for use by the contractor and any cost-plus-fixed-fee subcontractor hereunder (provided that there is no fixed-price subcontractor intervening between such subcontractor and the prime contractor), in respect of any tax, duty, impost, or excise, or any sale, use, transportation, occupational, or gross receipts tax or any similar tax or charge (other than a tax upon the income of the contractor or subcontractor), imposed by the Federal Government or any state or local government and directly applicable to the completed articles or work to be furnished under this contract, or to articles incorporated in such completed articles or work, or to the materials required or used in the production of such supplies or work, or to the importation, transportation, production, processing, manufacture, construction, sale or use of such supplies or materials; and upon the issuance of such tax exemption certificate or furnishing of other proof of exemption with respect to any such tax or charge, such tax or charge shall not be considered an item of Allowable Cost under this contract; provided, that at its option, the Government, in lieu of issuing tax exemption certificates or furnishing other proof of exemption, may reimburse the contractor for any such tax or charge, as an item of Allowable Cost under this contract or such cost-plus-fixed-fee subcontract.

(b) Notwithstanding the foregoing, amounts paid by the contractor in respect of any such state or local tax will be considered items of Allowable Cost under this contract if the state or local taxing authorities refuse to recognize the tax exemption certificate or other proof of exemption furnished hereunder and the tax is paid by the contractor under protest; provided, however, that the contractor shall take such steps as may be requested by the Government to cause such tax to be paid under protest, to preserve and to cause to be assigned to the Government any and all rights to the refund of such tax, to permit the Government to prosecute any claim, litigation or proceeding in the name of the contractor, and to furnish to the Government all reasonable assistance and cooperation requested by the Government in any litigation or proceeding for the recovery of such tax.

SECTION 30 - CONTINGENT FEES

The contractor warrants that he has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul the contract, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

SECTION 31- RECORDS

(a) The contractor shall keep records and books of account showing the cost of performing this contract. The method of accounting employed by the contractor shall be subject to the approval of the contracting officer but no material change will be made in the contractor's method of accounting if it conforms to good accounting practice and is sufficient for the purpose of applying the provisions of the Section of this contract governing the determining of costs.

(b) The contracting officer (and the Compensation Board) shall, at all reasonable times have access to all records and books of account pertaining to this contract. All information obtained from said records and books of account shall be treated as confidential.

(c) The contractor shall preserve all records and books of account pertaining to this contract; provided, however, that if the contractor, at any time after the lapse of six (6) years following the date upon which the final payment under the contract becomes due, desires to dispose of said records and books of account, he shall so notify the contracting officer, who shall either authorize their destruction or notify the contractor to turn them over to the Government for disposition, and the contractor shall promptly comply with such notice if given.

(d) Should the contractor enter into any subcontract on a cost-plus-a-fixed-fee basis which is incidental to the performance of this contract, the foregoing provisions of this Section shall be applicable to, and included in, such subcontract.

SECTION 32 - RENEGOTIATION

(a) This contract shall be deemed to contain all the provisions required by subsection (b) of the Renegotiation Act, as amended by Section 701 of the Revenue Act of 1943 (Public Law 235, 78th Congress), enacted February 25, 1944.

(b) In compliance with said subsection (b) of the Renegotiation Act, the contractor shall insert in the subcontracts specified in said subsection (b) either the provisions of this Section or the provisions required by said subsection (b).

## SECTION

## 33- ALIEN EMPLOYEES OF CONTRACTOR AND SUBCONTRACTOR

**Restricted**

(a) This contract is identified by the Navy Department as a Government contract within the meaning of Section 11 of 54 Stat. 676 (Public No. 671, 76th Congress) and it is agreed that no aliens in the employ of the contractor shall be permitted to have access to the plans or specifications or the work under the contract or to participate in the contract trials unless the written consent of the Secretary of the Navy has first been obtained.

(b) In each subcontract or purchase order which the contractor may make or place under this contract there shall be included a stipulation that no aliens in the employ of the corporation, partnership, or other person undertaking the performance of the subcontract or purchase order shall be permitted to have access to the plans or specifications, or the work under the contract, or to participate in the contract trials, unless the written consent of the Secretary of the Navy has first been obtained: Provided, That such stipulation need not be included in any subcontract or purchase order for standard or commercial products procured under specifications which will not disclose the nature or character of the subject matter of this contract or any other information relative thereto which has been identified by the Navy Department as Secret, Confidential or Restricted; Provided, further, that such stipulation need not be included in a subcontract or purchase order if the contracting officer or the naval inspector charged with the duty of inspecting the work or materials covered by this contract shall consent to the omission of such stipulation from such subcontract or purchase order or to the inclusion of a different stipulation therein.

## SECTION

## 34 - DISCLOSURE OF INFORMATION

(a) It is understood that the work contracted for hereunder relates to and is connected with the national defense (the prosecution of the war effort) and it is agreed: (1) That no information relating to the work under this contract shall be communicated, transmitted, or disclosed to any person not entitled to receive it; and (2) that the contractor shall be responsible for safeguarding matters within the contractor's control identified by the Navy Department as Secret, Confidential or Restricted.

(b) Information contained in the plans and specifications may be disclosed to the officers, agents, or employees of the contractor to the extent that such disclosure is essential to the performance of this contract, subject to any restrictions which may be imposed by the contracting officer or the Naval Inspector charged with the duty of inspecting the work or materials covered by this contract. Information contained in the plans and specifications may be disclosed to officers, agents, or employees of corporations, partnerships or persons undertaking the performance of subcontracts or purchase orders made or placed under this contract only if the contracting officer or the Naval Inspector charged with the duty of inspecting the work or materials covered by this contract shall consent to such disclosure.

(c) It is further 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 matters within the contractor's control identified by the Navy Department as Secret, Confidential or Restricted, may subject the contractor, his or its agents, employees, and subcontractors, to criminal liability under the laws of the United States, including Title I of an Act approved June 15, 1917 (Public No. 24, 65th Congress; 40 Stat. 217), as amended by an Act approved March 28, 1940 (Public No. 443, 76th Congress; 54 Stat. 79) (50 U. S. Code (1940 ed.) Chap. 4), and the provisions of an Act approved January 12, 1938 (Public No. 418, 75th Congress; 52 Stat. 37) U. S. Code (1940 ed.) 45-45d, as supplemented by Executive Order No. 8361, dated March 22, 1940.

SECTION 35 - REPORTS OF ESPIONAGE, SABOTAGE OR SUBVERSIVE ACTIVITIES.

(a) The contractor agrees that it will immediately submit a confidential report to the Navy Department or its duly authorized representatives, with copies to such other Government agencies as the Navy Department or its duly authorized representatives may designate, whenever it has information indicating (1) that any of its employees may be engaged in subversive activity at any place or (2) that an active danger of espionage or sabotage exists at any plant, factory or site at which work under this contract is being performed or at which material acquired, fabricated or manufactured in connection with the performance of this contract is stored. The report shall contain a complete statement of such information. The contractor agrees that it will instruct its personnel to submit any information coming to their attention with respect to the foregoing.

(b) The contractor agrees that it will, whenever directed by duly authorized representatives of the Navy Department, submit any and all information which the contractor may have concerning any of its employees engaged in work at any plant, factory or site at which work under this contract is being performed.

(c) The contractor agrees that it will refuse to employ, or if already employing will forthwith discharge from employment, and will exclude from any plant, factory or site at which work under this contract is being performed, any person or persons whom the Secretary of the Navy or his duly authorized representatives, in the interest of security against espionage, sabotage or subversive activity may designate.

(d) In each subcontract or purchase order which the contractor may make or place under this contract the contractor shall include stipulations which shall conform substantially to the language of the preceding paragraphs of this Section: Provided, That such stipulations need not be in any subcontract or purchase order for standard or commercial products procured under specifications which will not disclose the nature or character of the subject matter of this contract; Provided, further, that such stipulations need not be included in a subcontract or purchase order if the contracting officer or the Naval Inspector charged with the duty of inspecting the work or materials covered by this contract shall consent to the omission of such stipulations or to the inclusion of different stipulations therein.

SECTION 36 - 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 or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

SECTION 37 - DISPUTES

Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this contract shall be decided by the contracting officer, subject to written appeal by the contractor within thirty (30) days to the Secretary of the Navy or his duly authorized representative whose decision shall be final and conclusive upon the parties hereto. In the meantime the contractor shall diligently proceed with performance.

SECTION 38 - NONDISCRIMINATION

(a) The contractor hereby agrees that, in performing the work required by this contract, it will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin.

(b) The contractor hereby agrees that a provision identical with paragraph (a) above will be included in all of its subcontracts.

(c) For the purposes of this Section, subcontracts shall be deemed to include all purchase orders and agreements to perform all or any part of the work, or to make or furnish any article, required for the performance of this contract, except purchase orders or agreements for the furnishing of standard commercial articles or raw materials.

SECTION 39 - DEFINITIONS

(a) The term "contracting officer" means the Chief of the Bureau of Aeronautics and any other person designated by him as a contracting officer.

(b) The terms "Inspector of Naval Aircraft", "Naval Inspector" and "Bureau of Aeronautics Representative", except where otherwise indicated, mean the Naval Inspector or Bureau of Aeronautics Representative charged with the duty of inspecting the particular work or materials under this contract or under a subcontract.

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 A. C. Miles /s/  
Contracting Officer  
Bureau of Aeronautics

Grumman Aircraft Engineering Corp.  
Contractor

By L. R. Grumman /s/  
(Official Title) President

Bethpage, Long Island, New York  
(Business Address)

I, J. A. Stamm, certify that I am the \_\_\_\_\_ Secretary of the corporation named as contractor herein; that L. R. Grumman who signed this contract on behalf of the contractor, was then President 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.

J. A. Stamm /s/  
(Signature of person certifying)

## BILLING INSTRUCTIONS

Strict compliance with the Billing Instructions will facilitate early payment of invoices. No payment can be made, however, until the contract is returned, properly executed, to the Bureau of Aeronautics, Navy Department, Washington, D. C.

1. GENERAL: In case of conflict between the provisions of the Billing Instructions and the express terms of the contract, the express terms of the contract shall control.

### 2. PREPARATION OF INVOICES:

(a) Concerning the General Form of Invoices: Invoices are to be prepared by contractors on their regular billing forms. There is required to be stamped, printed or typewritten upon the original copy of each invoice the following certificate:

I CERTIFY THAT THE ABOVE BILL IS CORRECT AND JUST: THAT PAYMENT THEREFOR HAS NOT BEEN RECEIVED: THAT ALL STATUTORY REQUIREMENTS AS TO AMERICAN PRODUCTION AND LABOR STANDARDS, AND ALL CONDITIONS OF PURCHASE APPLICABLE TO THE TRANSACTIONS HAVE BEEN COMPLIED WITH, AND THAT STATE OR LOCAL SALES TAXES ARE NOT INCLUDED IN THE AMOUNTS BILLED.

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
Authorized Representative

Such certificate must actually appear on the original copy of the invoice -- an accompanying, annexed or separate certificate will not be acceptable -- and must be signed in the name and on behalf of the contractor by an authorized representative.

(b) Concerning Assignments: Notwithstanding an assignment of money claims pursuant to authority contained in the contract, the contractor -- not the assignee -- is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee, as follows:

PURSUANT TO THE INSTRUMENT OF ASSIGNMENT, DATED \_\_\_\_\_, MAKE  
PAYMENT OF THIS INVOICE TO (NAME AND ADDRESS OF ASSIGNEE).

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
Title

### 3. MARKING OF SHIPPING CONTAINERS:

The following information must plainly appear on all shipping boxes or containers:

- (1) Name of Contractor
- (2) Name and Address of Consignee
- (3) Contract Number Preceded by NOa(s) Symbol
- (4) Contents (only if contract is unclassified):
  - (a) Item or Items
  - (b) Identification or Model Designation of Item or Items
  - (c) Quantity of Each Item or Items

### 4. SUBMISSION OF INVOICES AND PLACE OF PAYMENT

Invoices will be submitted by you in duplicate under contract no(s) 1679 to the Navy Cost Inspector at your plant for certification and transmittal to the office of the cognizant Supervisory Cost Inspector where payment will be made by the assistant for Disbursing attached to such office or by the Disbursing Officer serving such office.



# NAVPLANTREP— THE NAVY'S MAN AT BETHPAGE

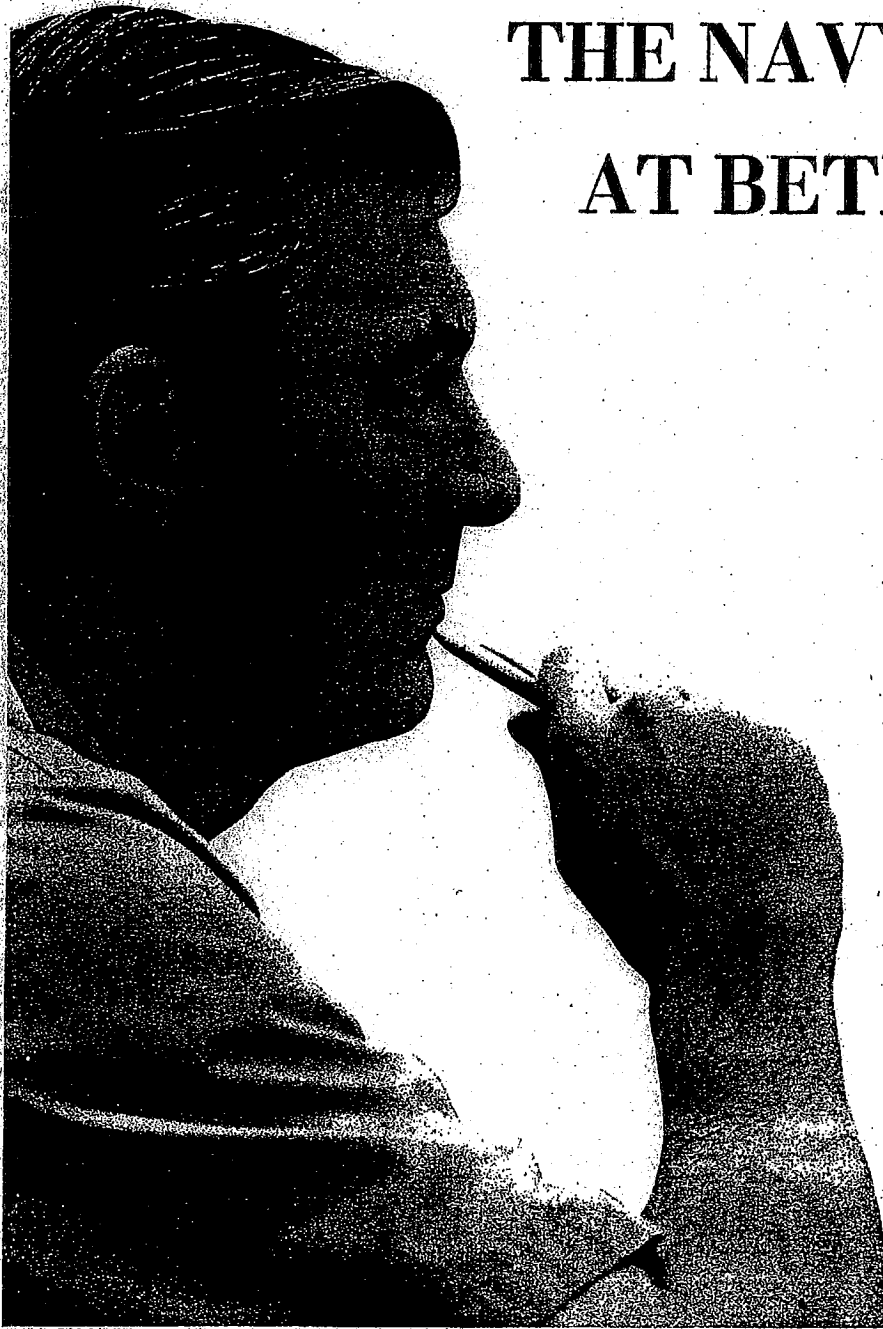


Photo by Fred Annetta

July 13, 1973

*"The NAVPLANTREP mission is to provide contract administration services including administrative contracting officer authority on assigned contracts and to provide representation with the assigned contractor concerning the procurement of materials and services for NAVAIR departments of the Navy, Army, and Air Force, the Department of Defense and other Government agencies and foreign governments as directed."*

That is quite a job charter, but it's hardly exhaustive. For example, the NAVPLANTREP also "Acts as technical representative of Naval Air Systems Command and other Government activities as assigned. Organizes and supervises the Naval Plant Representative Office (now staffed by 13 military officers and 209 civilians). Acts as Contracting Officer for NAVAIR-SYSCOM in field administration of contracts. Insures compliance with engineering requirements and proper inspection of materials. Controls internal security within NAVPRO. Administers assigned contracts in accordance with terms of the contract and current directives. Is responsive to the desire of NAVAIRSYSCOMREPLANT in effecting his coordination and administrative responsibilities. Promotes and fosters morale and discipline."

All that—and more—seems to cover the waterfront. And it leaves no doubt about where the command responsibility rests . . . and who gets scorched if decisions backfire. The man on that hot seat, as he has been for two years, is Capt. Robert Belter, Naval Plant Representative at Bethpage. And you sense very quickly that here's a man who will meet the requirements of the mission, preferably through rational discussion, but, when necessary, with a verbal sledgehammer. He knows his mission, is not at all intimidated by it, and acts accordingly.

"What I have to do is both simple and complex," Captain Belter says. "My fundamental responsibility is to get what was contracted for and see that it works properly. That's the part  
(Continued on page 8)

# Navy's man at Bethpage

(Continued from page 2)

that can be put rather simply and to the point, and it's no more than making sure that the Navy gets the quality product on time at agreed-to cost.

"The complex portion of the job is how to achieve that. For example, we can't duplicate, job for job and discipline for discipline, the organization that Grumman has. Yet, we have to know a good deal about the contractor's work, quality, scheduling, performance and costs. We have to have high visibility."

That's provided by the several Naval officers, who are program coordinators, and a permanent civil service staff located at Grumman, for the most part at Plant 35. For general purposes, these people—some of whom have been here for 20, 25, or 30 years or more—fall roughly into five functions: Quality Assurance (the largest in terms of people), headed by Bill Rourke; Contracts, led by Harold Hillel; Engineering, under Lt. Cdr. Jack Battenburg; Industrial Management, supervised by Don Granite; and Administration, headed by Ms. Merdie Bement. This relatively small group (if measured against the Grumman Aerospace workforce) functions as the Government's on-site agents, working side by side with people in the Company and sharing the common concern of getting good products to the user. As it was put by Rourke:

"Grumman wants to build, the Navy wants to fly, so we're working toward the same goal."

In essence, then, the skills and talents of the Grumman people are "mirrored" in the Navy categories:

- In Quality Assurance are people dealing with electronics, structures, metrology, materials and processes, cost/pricing analysis, standards and performance, and so on.

- Contracts personnel are engaged in negotiations and contract administration, proposal reviews, pricing, independent estimating and auditing, spares, etc.

- Those in Engineering review designs, see that specifications are met, check test plans, deal with an always-confounding series of engineering change proposals, and so forth.

- People in Industrial Management supply needed tools (and reallocate them as need demands), handle support operations, develop a spares inventory, do site-activation jobs, check on production-flow schedules and notify the contractor of slippages, and so on.

"We don't hide anything," comments Captain Belter. "It doesn't make sense to . . . and Grumman follows the same policy. That creates a climate of mutual trust. Believe me, that's essential."

The Captain casually hooks a leg over an arm of his chair, leans for-

ward, and talks of the crucial need for buyer and seller to operate, as much as possible, with mutual knowledge of the goals.

When David Packard was on the scene in the Department of Defense, he explained, there was a philosophy of "involvement." The motivating idea was that the Government should be involved with the contractor so as to understand better the strengths and weaknesses of each contractor. In that way, he thought, the Government would get better materials and a better product at lower cost.

## Cooperation the key

But, as Captain Belter remarks, "There's more to it than that, and if I had to point my finger at one factor, it's a spirit of cooperation. No matter how good the hardware is, no matter how high the mountain of necessary paperwork is, no matter how many grueling hours have to be put in, it's all for naught without real cooperation. There has to be mutual trust . . . no collusion, just close cooperation in order to get the job done."

As part of that cooperative spirit, the Captain points out that when problems arise "There's an honest, mutual effort to look behind an event in order to appreciate why and how it occurred. We try not to leap to an automatic conclusion that the contractor is at fault; and Grumman doesn't do it on its part. Both of us realize that the most productive route is through understanding, and changes as needed, to get the job done."

That sort of understanding has proved very effective, as demonstrated by the variety of aircraft that Grumman builds for the Navy, says the Captain, who goes on to remark:

- "The A-6 was bold in design at the beginning and remains bold in its A-6E configuration. It's working effectively and reliably, and it's far and away the best all-weather attack aircraft in the world.

- "The B-2 Hawkeye provides eyes for the Fleet. The plane is essential to Fleet commanders, who demand and must have both the very high system performance and high reliability of the B-2C.

- "The EA-6B is a truly unique aircraft and is a dramatic advance in capability and systems performance over earlier tactical electronic warfare airplanes. We're now accepting EA-6Bs for the Fleet that have orders of magnitude in greater system capability than any existing aircraft system.

- "And there's the F-14, which promises to be better than any of them."

All of these aircraft have been tested and proved successful in "the real environment" where the action is. But before any "buy" by the Navy, each new production aircraft is intensively and extensively checked by a Navy/

Grumman team. And out in Calverton, at Plant 6 final assembly and Plant 7 production flight acceptance, the Navy has set up what is called a "toll gate"—a point at which the Navy reserves the right to say, in effect, "We won't buy it." So then the Company has to take action to correct any "crabs" or deficiencies to make certain that the aircraft meets the previously agreed-to standards. It is there, at the end of the production line, that the Navy has 22 of its more than 80 Quality Assurance people, led by Joe Picolantonio; and there, too, are the pilots who give the okay for a plane to fly over the fence—a responsibility delegated to Cdr. Jim Roth.

"As you can see," says Captain Belter, "there aren't many of us, as compared with 22,000 Grummanites. Here we rely on the contractor and his good faith for the details of contract performance, although we keep basic records that we use to ascertain overall contract performance. And I must say that I don't know of any place where the critical cooperation is finer

they had down there, plus the F-11B at Calverton," he said.

"In NAVAIR, I was A-6 design officer, relieving Cdr. Andy Yates. I met a lot of Grumman people there . . . Ross Miceky, Bill Trillo, Dan Collins, Joe Novak . . . lots of people. Then I was honored to be selected for a one-year tour in South Asia as Assistant Chief of Staff, Commander Task Force 77. That was in '70-'71. Then my wife, Buff, and I came here—and again I came to relieve Captain Yates."

So Captain Belter has the experience to tackle a job in which he's contract officer, ambassador, communicator, and negotiator. As for what he thinks of his current assignment:

"Being here as NAVPLANTREP at Grumman is sort of like being aboard ship. When you're at sea with someone, you get to know people, and you're able generally to judge what a person is likely to do in a dynamic situation. That sea training, I think, is a great foundation for what I'm doing now—essentially, dealing with people. Cdr. George Rothrock, assistant NAV-



than it is here."

That's quite a kudo, for the Captain has been around. He went into the Navy in 1946 and spent four years in college and in flight training. He got his wings early in '50 and went into the Fleet as a flying midshipman. He was also a flight instructor at Pensacola, and in VC-6 flew North American's trimotor AJ Savage. In addition, he was one of the first flight instructors in the Douglas A-3 Sky Warrior.

He then went to Navy post-graduate school at Monterey, finishing in '63 and doing a master's thesis on aerothermodynamics. It was back to sea again, on the USS Bon Homme Richard and USS Independence, where he was officer in charge of VAH-4. He was at the Naval Air Test Center at Patuxent River in '66-'68 as head of the Attack Branch, Weapon Systems Test, as the A-6 Intruder and A-7 were in trials. "I flew just about everything

PLANTREP, and I work particularly well together. He is retiring in August, and he will be missed by all of us. He is one of the finest people I've ever known, and can really meld the talents of our NAVPRO folk together."

As for the Company, he says: "Grumman builds some of the finest aircraft in the world. The F-14, is far and away the best fighter the Navy's seen. It's going to be a real winner. The Navy knows it and Grumman knows it."

"But the crucial point I want to make is that cooperation is the key to success. Through give and take each side gets a better notion of how well we're doing. Each learns from the other. Occasionally, there's some friction—which isn't necessarily bad at all since it's the genesis of resolution of a problem. It leads to a better product, and that's the way it should be for both the Navy and the contractor."

GRUMMAN, July 15, 1973