

This contract ("Contract") is entered into as of June 4, 1990, between

Reynolds Metals Company, a corporation with offices at
Richmond, Virginia ("Owner"),
and Gilman Insulation Company, Incorporated, a corporation with offices at _____ ("Contractor").

The parties, acknowledging mutual consideration and intending to be legally bound, agree as follows:

1. SCOPE OF THE WORK. Except as otherwise provided in this Contract, Contractor shall furnish all of the supervision, materials, equipment, tools, supplies and services required for the complete performance of all of the work (the "Work") described or shown in (i) Exhibit A, attached to and made a part of this Contract, (ii) the specifications identified in Exhibit A and (iii) the drawings identified in Exhibit A. The term "Specifications" means the specifications identified in Exhibit A and any additional or revised specifications furnished to Contractor by Owner. The term "Drawings" means the drawings identified in Exhibit A and any additional or revised drawings furnished to Contractor by Owner. The Specifications and Drawings shall be a part of this Contract.

2. TIME OF COMPLETION; EXTENSIONS.

(a) Contractor shall commence the Work no later than June 15, 1990 and shall complete the Work in its entirety no later than 12/31/90. Contractor acknowledges that Owner may require completion of certain facilities, phases or subdivisions of the Work ahead of others, and Contractor shall diligently and expeditiously perform the Work in the sequence required by Owner.

(b) Contractor understands and agrees that time is of the essence in its performance of the Work and of each of its obligations under this Contract.

(c) If Contractor is delayed at any time in the performance of the Work by any act or neglect of Owner or by Owner's issuance of any change notice and, if Contractor provides Owner with a written request for an extension of time within seven days of such event, Owner shall extend the time of completion by such reasonable time as Owner may determine.

3. CONTRACTOR'S COMPENSATION.

(a) For the strict performance of all of Contractor's obligations under this Contract, Owner shall pay Contractor in accordance with Exhibit B, attached to and made a part of this Contract.

(b) Notwithstanding anything in this Contract to the contrary, neither final payment nor any other payment to Contractor under this Contract shall (i) constitute final acceptance of the Work, (ii) be evidence of the satisfactory performance of the Work by Contractor, either in whole or in part, or (iii) relieve Contractor of any liability to Owner for Contractor's breach of any of its obligations or warranties under this Contract.

4. CHANGES IN THE WORK.

(a) Owner shall have the right to (i) make changes in any work performed or to be performed, (ii) require additional work or (iii) require the deletion of work previously ordered. The provisions of this Contract shall apply to all changed and added work with the same effect as if such work had been originally included in the Work.

(b) Owner shall furnish Contractor with a written change notice describing any changes, additions or deletions to the Work. Owner shall not be required to notify Contractor's sureties of such changes, additions or deletions.

(c) If any changed or deleted portion of the Work was to have been performed on a lump sum basis and if, within 30 days of Owner's notice to change or delete such portion, the parties have not agreed in writing as to how such change or deletion is to affect Contractor's compensation under this Contract, Owner may make an equitable adjustment to the amount of compensation to be paid to Contractor under this Contract. Before making such adjustment, Owner shall request documentation relating to such change or deletion from Contractor, and Contractor shall promptly provide such documentation to Owner.

~~(d) If this is a lump sum contract and if, prior to the time that Contractor has been directed to commence any additional work, Owner and Contractor have not agreed in writing as to the additional compensation to be paid to Contractor for performing such additional work, Contractor shall perform such additional work on a cost plus basis, in which case Contractor shall furnish (i) all required labor at base wage rates, plus a fee of _____ percent (____%) thereof to cover Contractor's indirect costs, overhead and profit, plus Contractor's actual costs for established benefits, payroll taxes and insurance attributable to such labor, (ii) all required materials at its actual cost, plus a fee of _____ percent (____%) thereof to cover Contractor's overhead and profit, (iii) all required subcontracted work at its actual cost, plus a fee of _____ percent (____%) thereof to cover Contractor's overhead and profit, (iv) all required construction equipment at Contractor's published rental rates, if such equipment is owned by Contractor or at Contractor's actual cost, plus a fee of _____ percent (____%) thereof to cover Contractor's overhead and profit, if such equipment is owned by a third party, and (v) all required home office engineering at _____ Dollars (\$____) per hour to cover Contractor's direct and indirect costs, overhead and profit.~~

(e) If (i) Contractor believes that any change to the Work will increase its cost to perform the Work, (ii) the parties have not agreed in writing as to how such change is to affect Contractor's compensation under this Contract prior to the time that Contractor has been directed to commence such changed work and (iii) the changed work was to have been performed on a lump sum basis, Contractor, upon request, shall be entitled to an equitable adjustment to the amount of compensation it is to receive under this Contract. Such request shall (i) be in writing, (ii) be submitted not later than 15 days following Contractor's receipt of Owner's written change notice and (iii) include detailed support for the requested adjustment. Notwithstanding the foregoing, Contractor shall not be entitled to any adjustment if it fails to submit its request within the required time period or if it fails to provide detailed written support for such adjustment.

(f) No change, addition or deletion ordered by Owner in accordance with this section shall be deemed to be a termination of this Contract, either in whole or in part.

5. EXAMINATION OF WORKSITE, SPECIFICATIONS, DRAWINGS AND OTHER DOCUMENTS.

(a) Contractor certifies that it has carefully examined the worksite and is familiar with all physical and climatic conditions affecting the Work, or has had full opportunity to do so, and has satisfied itself that it fully understands the facilities, difficulties and restrictions involved with the performance of the Work. Contractor further certifies that it has thoroughly examined the Specifications, Drawings and other documents pertaining to the Work, or has had full opportunity to do so.

(b) Contractor shall not assert any failure to receive or examine any form, instrument, drawing or other document or any failure to visit the worksite and acquaint itself with existing conditions to relieve itself from any obligation under this Contract.

(c) Contractor warrants and represents that where the Specifications and Drawings as to any part of the Work require a given result to be produced, the Specifications and Drawings are adequate and that Contractor is competent to produce the required result. Contractor shall not make any claim for any additional compensation because of actual or alleged difficulties in the production of the required results.

6. CHANGED CONDITIONS.

(a) Contractor shall give Owner written notice before existing conditions at the worksite are disturbed if Contractor encounters (i) subsurface or latent conditions which differ materially from those shown on the Drawings or indicated in the Specifications or which may have been reasonably inferred therefrom or (ii) unknown conditions of an unusual nature which differ materially from those ordinarily encountered and generally recognized as being inherent in work of the character to be performed under this Contract. Owner shall issue a written change notice in accordance with section 4 if, in Owner's opinion, Contractor could not have discovered such conditions from a reasonable inspection of the worksite prior to entering into this Contract.

(b) No allowance or extra payment shall be made to Contractor or any of its subcontractors for or on account of costs or expenses occasioned by Contractor's failure to comply with the provisions of section 6(a). The term "subcontractors" means subcontractors of all tiers.

7. LICENSES, PERMITS AND NOTICES.

(a) Except as otherwise provided in this Contract, Contractor shall obtain and pay for all required consents, approvals, licenses and permits and shall give all required notices.

(b) If Contractor observes that the Specifications or Drawings are or may be at variance with any applicable statute, law, ordinance, code, order, rule, regulation, proclamation or other governmental requirement, Contractor shall promptly give Owner written notice. If Contractor fails to give such notice, Contractor shall bear all costs and expenses arising from such failure without reimbursement from Owner.

8. CONTRACTOR'S USE OF THE PREMISES.

(a) Contractor shall confine its operations, equipment, machinery and apparatus and the storage of its materials and supplies to those areas within Owner's premises which are designated by Owner.

(b) Contractor shall be allowed reasonable space at the worksite and shall be afforded access thereto.

(c) If the Work involves the performance of any work on existing facilities of Owner that are in operation or requires Contractor to perform work in the vicinity of such existing facilities, Contractor shall schedule, coordinate and perform the Work so as not to unnecessarily interfere with Owner's operations, if any, or with any work being performed by Owner or other contractors of Owner or their subcontractors.

(d) If Owner advises Contractor that certain areas are off limits to employees of Contractor or its subcontractors and any such employees are found in such areas without having been authorized by Owner to be in such areas, such employees shall, at the request of Owner, be immediately removed from the worksite.

9. CONTRACTOR'S AND OWNER'S REPRESENTATIVES.

(a) Contractor and Owner shall each designate a representative by written notice to the other party. Contractor's representative shall (i) be acceptable to Owner, (ii) be at the worksite at all times during the performance of the Work and (iii) have authority to act for Contractor in all matters pertaining to the Work. Owner's representative shall be authorized to act for Owner only to the extent of exercising Owner's general supervisory rights under this Contract and issuing written change notices in accordance with section 4. Owner's representative shall have no authority to modify or amend this Contract. Contractor shall not change its designated representative unless it gives prior written notice to Owner.

(b) Contractor shall not in any way be relieved of its responsibility for the proper supervision and performance of the Work in strict accordance with the terms of this Contract as a result of (i) any general supervision by Owner or (ii) any assistance which Owner may render to Contractor or to any of its subcontractors in connection with the Work.

10. CONTRACTOR, ITS EMPLOYEES AND SUBCONTRACTORS. Contractor is and shall be an independent contractor in the performance of the Work and, except as otherwise provided in this Contract, shall not be or hold itself out as an agent of Owner. Contractor shall have the right to hire or discharge employees and designate their work classifications. Contractor shall have complete charge and control of its employees and those of its subcontractors engaged in the performance of the Work. Contractor shall maintain strict discipline and order among its employees and employees of its subcontractors. Contractor shall not engage unqualified subcontractors nor employ unfit persons nor anyone unskilled in the work assigned. Owner reserves the right to require any employees of Contractor or Contractor's subcontractors to be removed from the worksite when, in Owner's opinion, such action is warranted. Solely for the benefit of Owner and Owner's employees, Contractor, its subcontractors and their employees, representatives and agents shall be subject to those rules, regulations and instructions promulgated by Owner and furnished to Contractor for the safe, orderly and efficient conduct of operations at the worksite.

11. ASSIGNMENTS AND SUBCONTRACTS.

(a) Contractor shall not, without Owner's prior written consent, assign this Contract or any payments due to Contractor under this Contract or subcontract the performance of any of the Work. Subject to the foregoing, this Contract shall be binding upon, and shall inure to the benefit of, the successors and permitted assigns of Owner and Contractor.

(b) Unless Owner agrees in writing to release Contractor, Owner's written consent to any assignment or subcontract shall not relieve Contractor from any of its obligations under this Contract.

(c) Contractor shall be as fully responsible to Owner for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them as it is for its own acts and omissions.

(d) All subcontracts shall contain a provision permitting assignment thereof to Owner.

(e) Contractor shall supervise and be responsible for the coordination and proper performance of all work of its subcontractors.

(f) Contractor shall require each of its subcontractors, to the extent of the Work to be performed by such subcontractor, to be bound to Contractor by the terms of this Contract and to assume towards Contractor all the obligations and responsibilities which Contractor assumes towards Owner under this Contract.

(g) Neither this Contract nor any subcontract entered into by Contractor shall create any contractual relationship between any subcontractor and Owner, nor any liability of Owner to a subcontractor.

(h) Owner shall have the right to require Contractor to terminate any of Contractor's subcontractors and to require that any of Contractor's subcontractors promptly vacate the worksite.

12. SEPARATE CONTRACTS.

(a) Owner reserves the right to let other contracts in connection with the Work or other related work, including, but not limited to, the right to perform the Work or any portion thereof with its own employees or through other contractors if this Contract or any portion thereof is terminated.

(b) Owner's representative shall coordinate the work to be performed by Contractor with the work to be performed at the worksite by others.

(c) If any of the Work depends for proper performance or results upon the work of any other contractor, Contractor shall inspect such work and promptly report to Owner any apparent discrepancies or defects in such work that render it unsuitable for proper performance and results. Contractor's failure to report any such apparent discrepancies or defects shall constitute an acceptance of the other contractor's work as fit and proper to receive the Work.

(d) Should Contractor or any of its subcontractors cause damage to the work or property of any other contractor or of any of its subcontractors, Contractor shall, upon notice from Owner, settle with such other contractor or subcontractor by agreement or arbitration if such other contractor or subcontractor is willing to settle. If such other contractor or subcontractor sues Owner or initiates an arbitration proceeding on account of any such damage, Owner shall notify Contractor, in which case (i) Contractor shall defend Owner in such proceeding at Contractor's expense, or, if Owner elects to handle its own defense, Contractor shall promptly reimburse Owner for all of Owner's attorneys' fees and costs and expenses of defense and (ii) Contractor shall pay or satisfy any judgment or award against Owner.

13. LABOR.

(a) Contractor shall employ its best efforts to avoid, minimize and resolve strikes, work stoppages or other disturbances which affect the performance of the Work or any operations or other work at the facility where the Work is being performed.

(b) Contractor shall resolve all disputes as to jurisdiction of trades arising at the worksite in accordance with any plan for the settlement of jurisdictional disputes which may be in effect either nationally or in the locality in which the Work is being performed; provided, however, that this section 13(b) shall not apply if such plan is in conflict with or violates any provision of law applicable to the settlement of such disputes.

14. OWNER'S RIGHT TO OCCUPY OR USE THE WORK BEFORE COMPLETION.

(a) At any time during the performance of the Work, Owner shall have the right to enter upon the worksite and to authorize other contractors of Owner to enter upon the worksite. Owner shall endeavor not to exercise such right so as to unreasonably delay Contractor's performance of the Work.

(b) If Owner deems it necessary to perform testing or start-up operations, Owner shall have the right to occupy part or all of the Work, whether or not complete, for the purpose of performing such operations. If Owner exercises such right, Contractor shall schedule, coordinate and perform the Work so as not to interfere with such operations.

(c) Notwithstanding anything in this Contract to the contrary, neither partial nor entire use or occupancy of the Work by Owner prior to final written acceptance of the Work by Owner shall (i) constitute final acceptance of the Work, (ii) be evidence of the satisfactory performance of the Work by Contractor or (iii) relieve Contractor of any liability to Owner for Contractor's breach of any of its obligations or warranties under this Contract.

15. **CLEAN-UP.** Contractor shall at all times keep the worksite free from accumulation of waste materials or debris resulting from the performance of the Work. Upon the completion of the Work, Contractor shall (i) remove from the worksite and adjoining property all waste materials, debris, tools, equipment, temporary structures and surplus materials belonging to it or its subcontractors, (ii) clean all glass surfaces installed by Contractor or its subcontractors and (iii) leave the worksite broom clean, unless Owner gives written instructions to the contrary. If Contractor fails to perform such clean-up, Owner may, at its option, do so and charge the cost of such clean-up to Contractor.

16. **OWNER'S SPECIFICATIONS AND DRAWINGS.**

(a) Owner shall furnish Contractor with sufficient copies of all Specifications and Drawings reasonably necessary for the performance of the Work, and Contractor shall keep at least one complete set of the Specifications and Drawings at the worksite at all times. Such set shall be (i) maintained by Contractor in good condition, (ii) available for Owner's inspection at any time and (iii) promptly marked by Contractor to reflect as-built conditions.

(b) If anything is mentioned in the Specifications but is not shown in the Drawings, or if anything is shown in the Drawings but is not mentioned in the Specifications, the effect shall be as if it had been mentioned in the Specifications and shown in the Drawings. In the event of any inconsistencies between the Specifications and Drawings, the Specifications shall govern unless, after being notified by Contractor of any such inconsistencies, Owner directs otherwise. Contractor shall not be relieved from performing details which are omitted from or misdescribed in the Specifications and Drawings if such details are evidently necessary to carry out the intent of the Specifications and Drawings or are customarily performed. Such details shall be performed as if fully set forth and described in the Specifications and Drawings. Detail Drawings shall take precedence over layout Drawings. Parts of the Work that are not particularly detailed, marked or specified shall be performed in the same manner as similar parts that are detailed, marked or specified.

(c) Contractor shall promptly give Owner written notice of any errors, discrepancies or inconsistencies which Contractor observes in the Specifications, Drawings or any work done by others which affects the Work, and Owner shall issue appropriate instructions to Contractor. If Contractor proceeds with any work affected by such errors, discrepancies or inconsistencies prior to receipt of Owner's instructions, Contractor shall, at its expense, make good any resulting damage or defects.

(d) Contractor shall compare all Drawings and verify the accuracy of dimensions before laying out the Work. When measurements are affected by conditions already established, Contractor shall take physical measurements notwithstanding the presence of scale or figure dimensions on the Drawings. If Contractor has knowledge that the Specifications and Drawings show variations from standard shop practices, Contractor shall give Owner written notice of such variations and shall not perform any work affected by such variations without Owner's written approval.

(e) Except for the purpose of performing the Work, Contractor shall not, without Owner's prior written consent, disclose or make copies of any designs, Specifications, Drawings or similar data or documents received by it from Owner.

(f) The Specifications and Drawings and any other technical documents provided by or for Owner to Contractor or any of its subcontractors shall (i) remain the property of Owner, (ii) not be copied, in whole or in part, except in connection with the performance of the Work, and (iii) be returned to Owner, together with any copies thereof, upon completion or termination of this Contract. Things prepared from documents covered by the preceding sentence (including, but not limited to, models, patterns, jigs, fixtures, dies, molds, and samples) shall be and shall remain Owner's property and shall be delivered to Owner upon completion or termination of this Contract, unless otherwise directed by Owner.

17. **CONTRACTOR'S DRAWINGS AND SPECIFICATIONS.**

(a) Contractor shall furnish Owner with sufficient copies of all specifications and drawings prepared by or on behalf of Contractor in connection with this Contract. Contractor shall keep at least one complete set of such specifications and drawings at the worksite at all times. Such sets shall be maintained in good condition and shall be available for Owner's inspection at any time. Contractor shall mark such specifications and drawings to reflect as-built conditions. Upon completion of the Work or any termination of this Contract, Contractor shall deliver a complete set of as-built drawings to Owner.

(b) All general layout drawings (including, but not limited to, equipment arrangements in plan and in elevation), electrical schematics, piping and instrumentation diagrams, anchor bolt details and shop drawings of any fabricated work or equipment shall be submitted to Owner for review. Work fabricated or installed prior to such review shall be at Contractor's risk. Contractor shall submit all such drawings sufficiently in advance of requirements to allow ample time for (i) checking by Owner and (ii) any correcting by Contractor, resubmittal to Owner or rechecking by Owner which may be necessary, and no additional compensation or extension of time shall be granted if Contractor incurs additional costs or delays in the performance of the Work as a result of its failure to comply with this requirement. All drawings submitted by Contractor for Owner's review shall bear Contractor's stamp showing that such drawings have been checked and approved by Contractor. Drawings submitted without such stamp shall not be considered and shall be returned to Contractor for resubmission. Owner's review of drawings shall be general and shall not relieve Contractor from (i) responsibility for the accuracy, adequacy and completeness of the drawings and work performed in accordance with the drawings or (ii) any of its duties or responsibilities under this Contract. If corrections are required, Contractor shall resubmit the drawings and other pertinent data with corrections made.

(c) Contractor shall also submit a copy of all drawings to Owner simultaneously with their release by Contractor for use in fabrication, purchase or construction. Contractor shall give written notice to Owner of any inconsistencies between drawings reviewed by Owner and standard shop practices.

(d) Title to all specifications, drawings and other technical documents prepared by or for Contractor or any of its subcontractors in connection with the performance of the Work shall vest in Owner. Contractor shall ensure that such documents are accurate and kept up to date and shall deliver them to Owner in good form and condition upon completion or termination of this Contract. Things prepared from documents covered by the preceding sentence (including, but not limited to, models, patterns, jigs, fixtures, dies, molds, and samples) shall be and shall remain Owner's property and shall be delivered to Owner upon completion or termination of this Contract, unless otherwise directed by Owner.

18. **OVERTIME.**

(a) Owner shall not be obligated to pay Contractor any additional compensation for any overtime worked by Contractor or its subcontractors unless Owner (i) so agrees in writing prior to the performance of such overtime work or (ii) directs the performance of such overtime work in accordance with section 18(b).

(b) Contractor shall perform any overtime work directed in writing by Owner. If this is a lump sum contract or if Contractor is to be compensated for the portion of the Work to which such overtime work relates on a lump sum basis, Owner shall reimburse Contractor for (i) the premium portion of the hourly wages paid in connection with such overtime work and (ii) all taxes, insurances and established benefits applicable to such premium portion; provided, however, that Owner shall not be obligated to reimburse Contractor if, in Owner's reasonable opinion, such overtime work is required for the timely performance of the Work. If this is not a lump sum contract and if Contractor is not to be compensated for the portion of the Work to which such overtime work relates on a lump sum basis, Owner shall reimburse Contractor for such overtime work in accordance with Exhibit B; provided, however, that, if Exhibit B does not specify how Contractor is to be reimbursed for overtime work, Owner shall (i) pay Contractor 150% of the straight time hourly base wages paid in connection with such overtime work and (ii) reimburse Contractor for all taxes, insurances and established benefits applicable to such overtime work.

19. **MATERIALS AND WORKMANSHIP.**

(a) Strict performance of the Work in accordance with this Contract is of the essence. The Work shall conform to the generally accepted standards of the trades involved, except where more stringent standards have been specified by Owner, in which case the Work shall conform to such more stringent standards. Contractor shall fabricate, work, fit and furnish all materials and erect or install them in the Work and fit them to other work as may be required in a first class, workmanlike manner.

(b) Contractor shall use only skilled craftsmen who are experienced in their respective trades and the types of work involved. Contractor shall furnish adequate and efficient supervision and keep an adequate supply of workmen and materials on the Work at all times and shall perform the Work in the most expeditious manner.

(c) Whenever any material, apparatus, equipment or process is indicated or specified by patent number, proprietary name or by the name of the manufacturer, the number or name so indicated or specified shall be deemed to be used for the purpose of facilitating the description of the item desired. Contractor may offer any material, apparatus, equipment or process which it considers equal in every respect to the item indicated or specified; provided, however, that if the material, apparatus, equipment or process offered by Contractor is not, in Owner's opinion, substantially equal in every respect to the indicated or specified item, Contractor shall furnish the material, apparatus, equipment or process that was indicated or specified or one which, in Owner's

opinion, is the substantial equal thereof. Any material, apparatus, equipment or process substituted by Contractor without Owner's approval shall be subject to subsequent rejection, in which case it shall be replaced by Contractor at no cost to Owner.

20. SCHEDULES. Upon Owner's request, Contractor shall promptly deliver to Owner (i) a schedule showing the proposed dates of commencement and completion of each of the various phases and subdivisions of the Work and (ii) statements and reports, in the format specified by Owner, showing the status and progress of, and forecasts for, the Work.

21. INSPECTION.

(a) Owner shall at all times have access to and the right to inspect the Work, and Contractor shall provide proper facilities for such access and inspection. Such access shall include, but shall not be limited to, access, by prior arrangement, to vendors, manufacturers, workshops, fabricators and testing facilities of Contractor or its subcontractors and to any other type of facility used by Contractor or its subcontractors in the performance of the Work.

(b) All materials, equipment and work shall be subject to inspection and test by Owner. If the Specifications, Owner's instructions or any governmental authority require special inspections, tests or approvals, Contractor shall give Owner timely notice of readiness for inspection. If inspections or tests are to be made by anyone other than Owner, Contractor shall give Owner sufficient notice of the date fixed for each such inspection to give Owner reasonable opportunity to be present. Contractor shall promptly furnish all materials necessary for inspections and tests. No materials, equipment or work which are required to be inspected, tested or approved shall be covered until after the such inspection, test or approval has been accomplished.

(c) If any work is covered without Owner's prior approval or consent, Contractor shall, if required by Owner, uncover such work for examination. With respect to such work, Contractor shall bear the costs of (i) the uncovering, (ii) any necessary correction or replacement and (iii) the recovering.

(d) If Owner wishes to reexamine any work already completed, Contractor shall uncover such work. If such uncovered work is found to have been done in accordance with this Contract, Owner shall pay the costs of the uncovering, reexamination, replacement and recovering of such work. If such uncovered work is found to have been done not in accordance with this Contract, Contractor shall pay the costs of uncovering, reexamination, replacement and recovering; provided, however, that, if Contractor can show that all of the defective or faulty work was caused by other contractors, other than Contractor's subcontractors, Owner shall pay such costs.

(e) If, in Owner's opinion, any of the work, materials or equipment, whether or not incorporated in the Work, are faulty or inadequate, Contractor shall, at its expense, promptly (i) remove such work, materials or equipment from the worksite, (ii) replace and reconstruct its own work in accordance with this Contract and (iii) make good any work of other contractors that was destroyed or damaged as a result of such removal or replacement. If Contractor fails to take diligent steps to correct defective or faulty work after receipt of written notice from Owner, Owner may, at its option, correct such work and charge the costs of such corrections to Contractor.

22. FINAL ACCEPTANCE.

(a) When Contractor deems the Work completed, Contractor shall give Owner written notice thereof. Within 30 days after receipt of such notice, or within such longer time period as is reasonable under the circumstances, Owner shall determine whether the Work has been completed in strict accordance with this Contract. If it has, Owner shall advise Contractor in writing of its final acceptance thereof. If the Work has not been completed in strict accordance with this Contract, Owner shall notify Contractor of the defects, and Contractor shall promptly correct such defects. The aforesaid procedure shall be repeated until the Work has been completed in strict accordance with this Contract.

(b) Notwithstanding anything in this Contract to the contrary, final acceptance of the Work shall not relieve Contractor of any liability to Owner for Contractor's breach of any of its obligations or warranties under this Contract.

23. WARRANTY. The Work shall strictly conform to the requirements of this Contract. Contractor warrants that all materials and equipment furnished under this Contract shall (i) be new, except as otherwise provided in this Contract, (ii) be free from defects in design, workmanship and materials and (iii) conform to generally recognized commercial standards of quality and fitness for purpose. Contractor further warrants that all Work shall be of good quality, free from faults or defects and in conformance with this Contract. If requested by Owner, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and workmanship. Contractor shall, at its expense, remedy any defects in the Work and any damage to work performed by others resulting from defective material, equipment or supplies or from faulty workmanship which are discovered within the one-year period that commences with Owner's final acceptance of the Work. If Contractor fails to correct such defects or damage promptly after being notified by Owner, Owner may, at its option, have such defects or damage corrected and charge the costs of such corrections to Contractor.

24. LIENS.

(a) Contractor shall keep Owner's real and personal property free and clear of liens, claims and encumbrances arising out of or resulting from the performance of the Work by Contractor or its subcontractors, including, but not limited to, all materialmen's and mechanics' liens in connection with labor or material furnished by Contractor or its subcontractors. If any such lien, claim or encumbrance is filed, Contractor shall promptly cause it to be removed without cost to Owner. Contractor shall protect, defend and indemnify Owner, Owner's affiliates and the directors, officers, employees, agents and representatives of Owner and Owner's affiliates from and against any and all claims, losses, damages, costs, actions, judgments, expenses and liabilities of every kind and nature whatsoever (including, but not limited to, attorneys' fees and costs and expenses of the proceeding) which, either directly or indirectly, arise out of or result from such liens, claims or encumbrances. As to any party, the term "affiliates" means any corporation, partnership, trust or other entity controlling, controlled by or under the common control with such party.

(b) Owner shall not be obligated to make final payment or pay any part of any retained percentage to Contractor upon the completion or termination of this Contract until Contractor has delivered to Owner (i) a duly executed affidavit, release and waiver of liens prepared by Owner for this purpose and (ii) evidence establishing to Owner's satisfaction that all labor, services, equipment and materials have been fully paid for and that all subcontractors have been paid in full. Additionally, if this Contract provides for progress payments to Contractor, Owner may, at its option, require Contractor to furnish a duly executed affidavit, release and waiver of liens and evidence of payment by Contractor for the labor, services, equipment and materials covered by any such progress payment.

(c) If a preliminary lien notice or any other form of communication (whether formal or informal, written or oral) is received from any of Contractor's subcontractors or from any employee or supplier of Contractor or Contractor's subcontractors concerning the failure of Contractor or of any of its subcontractors to pay for any labor, services, equipment or materials furnished in connection with the Work, Owner may, at its option, pay such subcontractor, employee or supplier directly for such labor, services, equipment or materials and deduct the amount of such payment from any amounts then or thereafter due Contractor. If the amounts then or thereafter due Contractor are not sufficient to cover such payment, Contractor shall promptly pay the difference to Owner.

(d) If any lien affecting Owner's property remains unsatisfied after all payments have been made to Contractor in connection with this Contract, Owner may, at its option, obtain a discharge of such lien. Contractor shall promptly reimburse Owner for all costs and expenses incurred by Owner in obtaining such discharge, including, but not limited to, all payments by Owner to the party which filed the lien and all of Owner's court costs and attorneys' fees.

25. PROTECTIVE AND SAFETY MEASURES.

(a) Until Owner's final acceptance of the Work, Contractor shall take all reasonable precautions (i) for the safety of the public and all employees and other persons at the worksite and (ii) for preventing damage to property in connection with the performance of the Work.

(b) In an emergency threatening the safety of persons or property, including, but not limited to, adjoining property, Contractor may act in its discretion to prevent any injury or damage without waiting for special instructions or authorization from Owner.

(c) Contractor shall review pertinent material safety data sheets available at the worksite and take appropriate precautions regarding exposure of its employees or subcontractors. Contractor shall advise Owner of any hazardous substances it or its subcontractors bring onto Owner's premises.

(d) Contractor shall shore up, brace, underpin and otherwise protect in such manner as may be necessary all foundations and other parts of any existing structures, including, but not limited to, structures which are adjacent to or adjoining the worksite which are in any way affected by an excavation or other operations included in the Work. If any notice is required to be given by Owner or Contractor to any adjoining or adjacent landowner or to any other party, such as a governmental agency, Contractor shall give such notice before the commencement of any such work.

(e) Contractor shall not load or permit any part of any structure to be loaded to such an extent as to endanger it or other structures.

26. INDEMNITY.

(a) The presence at the worksite of Contractor, Contractor's subcontractors or their officers, employees, agents or representatives is at Contractor's risk. Contractor shall protect, defend and indemnify Owner, Owner's affiliates and the directors, officers, employees, agents and representatives of Owner and its affiliates from and against any and all claims, losses, damages, costs, actions, judgments, expenses and liabilities of every kind and nature whatsoever (including, but not limited to, attorneys' fees and costs and expenses of defense), which, either directly or indirectly, are in any way connected with, arise out of or result from the performance of the Work or Contractor's actual or alleged breach of its obligations or warranties under this Contract, including, but not limited to, actual or alleged bodily injury (including death) or loss or damage to any property arising out of or resulting from any act or omission, negligent or otherwise, on the part of Contractor, Contractor's subcontractors or any of their officers, employees, agents or representatives.

(b) The provisions of section 26(a) shall apply whether or not the damage, injury or loss was caused or contributed to or alleged to have been caused or contributed to by the active, passive, affirmative, sole or concurrent negligence or breach of any statutory duty, whether delegable or otherwise, on the part of Owner, its affiliates or their officers, employees, agents or representatives or any liability therefor imputed as a matter of law to Owner, its affiliates or their officers, employees, agents or representatives. A portion of the price to be paid to Contractor by Owner for the Work is a consideration for Contractor's assumption of liability and Contractor's indemnity obligations under this Contract.

(c) If the provisions of section 26(b) are unenforceable under applicable law, the parties agree that (i) section 26(b) is separable and severable from section 26(a) and from all other provisions of this Contract, (ii) section 26(b) does not constitute the main or essential feature of this Contract and (iii) the obligations of indemnification assumed by Contractor under section 26(a) shall remain in full force and effect. Sections 26(a), 26(b) and 26(c) shall be interpreted and applied to conform in all respects with applicable law.

27. INSURANCE.

(a) Contractor shall not commence performance of the Work until it has furnished Owner with certificates of insurance satisfactory to Owner certifying that valid insurance policies are in effect and will remain in effect until the Work has been fully performed. Such policies shall provide for (i) Workers' Compensation insurance in statutory limits, unless Contractor provides evidence satisfactory to Owner of being a qualified self-insurer, (ii) Employer's Liability insurance with a combined single limit of liability of not less than \$250,000 for each person/each accident, (iii) Comprehensive General Liability insurance (including, but not limited to, coverages for Broad Form Property Damage, Contractual Liability, Personal Injury and Explosion, Collapse and Underground Utilities) with a combined single limit of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage, (iv) Comprehensive Automobile Liability insurance with a combined single limit of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage, if any automotive or mobile equipment is to be used in connection with the Work, (v) Aircraft Liability insurance covering owned and non-owned aircraft with a combined single limit of liability of not less than \$10,000,000 per occurrence for bodily injury or property damage, if any aircraft are utilized in the performance of the Work and (vi) United States Longshoremen's and Harborworkers' Act insurance within statutory limits and Marine Liability insurance (including, but not limited to, coverages for maintenance, cure, repatriation and death) with combined limits of liability of not less than \$10,000,000 for each person/each accident, where applicable. Excess Liability or Umbrella Liability policies may be utilized to achieve the minimum amounts of insurance under any of the foregoing insurance requirements.

(b) Except for the Worker's Compensation insurance, Owner, such affiliates of Owner as Owner designates and their directors, officers and employees shall be named as additional insureds in all of the foregoing insurance policies with a statement to that effect set forth in the certificates of insurance furnished to Owner. Such certificates of insurance shall provide for 30 days' written notice to Owner of any cancellation, termination or material change in coverage.

(c) The aforesaid insurance coverage is intended to protect Owner, its affiliates and their directors, officers and employees against any and all claims, losses, damages, costs, actions, judgments, expenses and liabilities which, either directly or indirectly, are in any way connected with, arise out of or result from the performance of the Work, wherever such may occur. If Contractor utilizes subcontractors in the performance of the Work, Contractor shall ensure that all such subcontractors have obtained the insurance coverage and endorsements required to be obtained by Contractor and that certificates of insurance evidencing such coverage and endorsements have been furnished to Owner before any such subcontractor enters the worksite.

28. **BONDS.** Upon Owner's request, Contractor shall furnish performance and payment bonds satisfactory in form and amount to Owner. Such bonds shall cover Contractor's faithful performance of the Work and Contractor's payment of all of its obligations to third parties in connection with the Work. Such bonds shall be with such sureties as Owner may approve. Owner shall pay the costs of any bonds requested by Owner.

29. **TAXES.** Contractor shall pay suppliers for all sales and use taxes on equipment, materials and all other personal property used or purchased for use in connection with the Work. Contractor shall also pay all occupational, business, excise and other taxes levied or imposed upon Contractor, Contractor's business or the performance of the Work.

30. INTELLECTUAL PROPERTY.

(a) The term "intellectual property right" means any right pertaining to a patent, trademark, copyright, trade secret, or the like. An intellectual property right shall be deemed infringed by the Work if the right is infringed by (i) the performance of the Work, (ii) making one or more things in accordance with a specification, drawing or other technical document furnished in connection with the Work, (iii) using or selling such thing or things or (iv) using or selling one or more things furnished in connection with the Work.

(b) Contractor warrants that, to the best of its knowledge, there is no intellectual property right that will be infringed by the Work or will require Owner to pay a royalty. Contractor further warrants that, to the best of its knowledge, there has been no claim that such infringement will occur. If Contractor becomes aware of any such intellectual property right or claim, Contractor shall promptly advise Owner to that effect.

(c) Contractor shall indemnify and defend Owner against any claim that the Work infringes any intellectual property right or requires Owner to pay a royalty. Owner shall promptly notify Contractor of claims of such infringement and shall cooperate with Contractor, at Contractor's expense, in defending against or otherwise resolving them. If at any time Contractor believes that the Work or the performance thereof should be modified so as to avoid such claimed infringement and that the modification will not be detrimental to Owner, it shall give Owner written notice proposing and specifying the modifications, explaining how they would avoid infringement, and offering to pay for them. If Owner agrees that the proposed modifications will not be detrimental to it, which agreement shall not be unreasonably withheld, Owner, at its option, shall either (i) have them made at Contractor's expense or (ii) release Contractor from its obligations under this section 30(c) to the extent such obligations would have been reduced by the proposed modifications. This section 30(c) shall not apply to infringement resulting primarily from adherence to Drawings, Specifications or other technical documents, or from use or sale of one or more things furnished by Owner in connection with the Work, if the subject matter adhered to was arrived at independently of Contractor and its subcontractors.

(d) All purchase orders and contracts entered into by Contractor or its subcontractors for the purchase of any materials, supplies, equipment, machinery, apparatus, services or anything else in connection with the Work shall contain the following provision or the equivalent:

INTELLECTUAL PROPERTY: (Seller) shall indemnify and defend (Owner) against any claim that the goods or services furnished by (Seller) hereunder infringe any patent, trademark, copyright, trade secret, or other intellectual property right.

(e) Owner shall own all intellectual property rights pertaining to the intellectual property which (i) is originated or developed by Contractor or any of its subcontractors in the performance of the Work and (ii) is more pertinent to Owner's business than to the part of Contractor's or its subcontractor's business that originated or developed it. Contractor shall promptly and fully disclose all such intellectual property to Owner, shall execute all documents Owner reasonably deems necessary to confirm Owner's ownership of the intellectual property rights or to obtain patents and copyrights for the intellectual property rights, and shall cooperate with Owner, at Owner's request and expense, in obtaining and enforcing such patents and copyrights.

(f) Contractor shall own all intellectual property rights which (i) are originated or developed by Contractor in the performance of the Work and (ii) are more pertinent to the part of Contractor's business that originated or developed them than to Owner's business, subject to a perpetual, worldwide, nontransferable, royalty-free, nonexclusive license of Owner and Owner's affiliates.

31. TITLE AND RISK OF LOSS.

(a) As between Owner and Contractor, Owner shall have title to and bear the risk of loss for any Work which has been completed or which is in the course of construction. As between Owner and Contractor, Owner shall have title to all equipment, tools, materials and supplies as to which title has passed from the vendors thereof to Contractor and which are to be consumed or incorporated in the Work. Contractor shall bear the risk of loss for such equipment, tools, materials and supplies until they have either been consumed or incorporated in the Work. Contractor shall obtain and deliver to Owner all documents Owner deems necessary to confirm title in Owner.

(b) Contractor warrants good title to all equipment, tools, materials and supplies which are furnished by or on behalf of Contractor and which are consumed or incorporated in the Work.

32. RECORDS AND AUDITS. If this Contract is not a lump sum contract, or if any changes in the Work are performed on other than a lump sum basis, Contractor shall keep the necessary records and books of account to document fully any costs that are reimbursable to Contractor under this Contract. Contractor shall keep such other records and books of account as Owner may reasonably require. Such records and books of account shall be subject to audit by Owner and Owner's representatives and shall show the actual cost to Contractor of all items of labor, material, equipment, supplies, services and other expenditures of whatever nature for which reimbursement is authorized under this Contract. Owner and its representatives shall have access at all reasonable times to Contractor's books, records, payrolls, personnel records, correspondence, instructions, conditions of employment, plans, drawings, receipts, invoices and memoranda of every description pertaining to work done on other than a lump sum basis. Contractor shall preserve such items without additional compensation therefor for a period of three years after the completion or termination of this Contract. Upon completion of the Work, Contractor shall submit such cost reports and other data as may be required by Owner to establish Owner's cost basis for all phases and subdivisions of the Work.

33. FORCE MAJEURE. Neither party shall be liable for failure or delay in the performance of its obligations under this Contract due in whole or in part to causes such as an act of God, strike, lockout or other labor dispute, civil commotion, sabotage, fire, flood, explosion, acts of any government, unforeseen shortages or unavailability of fuel, power, transportation, raw materials or supplies, inability to obtain or delay in obtaining governmental approvals, permits, licenses or allocations, and any other causes which are not within such party's reasonable control, whether or not of the kind specifically enumerated above; provided that the party whose performance is affected thereby shall have given notice and reasonably full particulars in writing to the other party within seven days of the affected party's knowledge of the occurrence of such cause. Included in such notice shall be the affected party's best estimate of the anticipated duration of the delay, and the affected party shall give the other party written notice immediately upon any changes in the anticipated duration. To the extent that they are affected by such cause, the obligations of the party giving such notice shall be suspended during the period of any such inability to perform, but for no longer period; provided, however, that no adjustment shall be made to the time for the completion of this Contract to the extent that Contractor's performance would have otherwise been delayed by any other cause, including, but not limited to, the default or negligence of Contractor. The party whose performance is affected shall, so far as possible, remedy the cause of the delay with all reasonable dispatch; provided, however, that a party having labor difficulty shall not be required to settle strikes or lockouts by acceding to the demands of the opposing party when such course is, in the opinion of the party having the difficulty, inadvisable.

34. DEFAULT.

(a) The existence of any of the following circumstances shall constitute a default by Contractor under this Contract and shall entitle Owner to terminate this Contract immediately upon written notice to Contractor:

(1) Owner's belief that the Work will not be completed in a timely manner due to the failure of Contractor to make sufficient progress in the performance of the Work;

(2) Contractor's failure to comply strictly with any of the provisions of this Contract;

(3) Contractor's failure for 30 days to pay amounts due to any subcontractors or suppliers for material or services after such amounts are due;

(4) Contractor's insolvency or inability to pay its debts as they become due or Contractor's commission of any act of bankruptcy or the appointment of a trustee or receiver to participate in the management of Contractor's business;

(5) Contractor's disregarding of any applicable statute, law, ordinance, code, order, rule, regulation, proclamation or other governmental requirement;

(6) Contractor's failure in any manner to perform the Work strictly in accordance with this Contract or to correct defects in the Work within such period as Owner may reasonably provide in Owner's written notice to Contractor stating such failure. Such notice shall precede and be in addition to the notice provided for in section 34(c).

(b) In the event of termination for default, Contractor shall be and shall remain liable to Owner for all loss and damage which Owner may suffer by reason of such default and for any breaches by Contractor of its obligations or warranties under this Contract. Termination for default shall not affect any other rights and remedies which Owner may have because of the stated default or any other failure of performance under, or breach of, this Contract.

(c) Termination for default shall be effected by written notice from Owner stating the circumstances of default and the date upon which Contractor is to complete the removal from the worksite of its personnel and property and that of its subcontractors.

(d) Other than the final settlement of Contractor's claims in accordance with section 35(f), Owner shall have no liability or obligation whatsoever to Contractor by reason of or resulting from termination for default. If it is subsequently determined that Contractor was not in default or that its failure strictly to perform this Contract was due to causes beyond its control and without its fault or negligence, the termination shall be deemed to have been for the convenience of Owner, and Owner's sole obligation or liability to Contractor shall be to settle with Contractor in accordance with section 35(e).

35. TERMINATION.

(a) Contractor may terminate this Contract:

(i) upon 10 days' prior written notice to Owner should the Work should be stopped under an order of any court or other governmental authority for a period of at least 90 days through no act or fault of Contractor, its subcontractors or any of their employees;

(2) upon written notice to Owner if (i) Owner failed to make any payment to Contractor, except for a payment as to which a good faith dispute exists, within 30 days after it is due, (ii) Contractor then gave Owner written notice of such failure and requested that it be remedied and (iii) Owner failed to remedy such failure within seven days of its receipt of such notice; or

(3) upon written notice to Owner if the duration of any suspension of the Work in accordance with section 36(a) exceeds one year.

(b) Owner shall have the right to terminate this Contract at any time for any reason upon written notice to Contractor. Such notice shall specify the date upon which such termination shall be effective. Owner's right of termination shall be without prejudice to any claims or other rights which Owner may have against Contractor by operation of law or otherwise and shall not be in lieu of or in limitation of Owner's right to require the deletion of any part of the Work in accordance with section 4. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, (i) immediately discontinue the Work and the placing of orders for materials, equipment and supplies in connection with the performance of this Contract, (ii) make every reasonable effort to terminate all existing commitments in connection with the Work upon terms satisfactory to Owner, if so requested by Owner and (iii) thereafter do only such work as Owner may request or as may be necessary to preserve and protect work already in progress. Owner's property, or materials or equipment at the worksite or in transit to it.

(c) Upon any termination of this Contract, Owner may, at its option, enter the worksite for any and all purposes, including, but not limited to, the completion of the Work. If such termination is due to the default of Contractor, Owner may, at its option, take possession of, and utilize in the completion of the Work, any or all of Contractor's equipment engaged in the Work, whether such equipment is owned or rented by Contractor and whether it is located at the worksite or elsewhere.

(d) Upon any termination of this Contract, Contractor shall deliver to Owner all specifications, drawings, plans, maps, calculations, bills of materials and other documents pertaining to the Work which are in Contractor's possession. Contractor shall cooperate with Owner in transferring to Owner all rights to equipment, materials, supplies and services procured for the performance of, or to be incorporated in, the Work. If appropriate documentation of such transfer of rights is requested by Owner, Contractor's execution of such documentation shall be a condition of final payment by Owner.

(e) Upon any termination of this Contract, other than termination due to the default of Contractor, final settlement of all claims of Contractor arising out of this Contract shall be made as follows:

(1) Owner shall assume and become liable for Contractor's obligations with respect to undelivered materials, supplies, equipment and unperformed services that Contractor may have theretofore in good faith undertaken or incurred in connection with the Work prior to receiving the notice of termination.

(2) If this is a lump sum contract, Owner shall pay Contractor an amount which, when added to any payments theretofore made to Contractor under this Contract, bears the same ratio to the total Contract price as the amount of the Work completed by Contractor prior to the effective date of termination bears to the total amount of the Work.

(3) If this is other than a lump sum contract, (i) Owner shall pay Contractor in accordance with Exhibit B for all work performed by Contractor prior to the effective date of termination and (ii) if any fixed fee is established in Exhibit B, Owner shall pay Contractor an amount which, when added to any partial payments of the fixed fee theretofore made to Contractor under this Contract, bears the same ratio to the fixed fee shown in Exhibit B as the amount of the Work completed by Contractor prior to the effective date of termination bears to the total amount of the Work.

(4) Owner shall also pay Contractor for any work performed after the effective date of termination to the extent that such work was requested by Owner or was necessary to preserve and protect (i) work already in progress, (ii) Owner's property or (iii) materials or equipment at the worksite or in transit to it. The amount to be paid to Contractor for any such work performed after termination shall be Contractor's documented direct costs for such work, plus an additional 10 percent for profit and overhead.

(f) If the termination of this Contract is due to the default of Contractor, final settlement of all claims of Contractor arising out of this Contract shall be made as follows:

(1) Contractor shall not be entitled to receive any further payments under this Contract, including, but not limited to, any payments in accordance with this section, until the Work has been fully completed.

(2) If this is not a lump sum contract, upon completion of the Work (i) Owner shall pay Contractor in accordance with Exhibit B for all work performed by Contractor prior to the effective date of termination and (ii) if any fixed fee is established in Exhibit B, Owner shall pay Contractor an amount which, when added to any partial payments of the fixed fee theretofore made to Contractor under this Contract, bears the same ratio to the fixed fee shown in Exhibit B as the amount of the Work completed by Contractor prior to the effective date of termination bears to the total amount of the Work.

(3) If this is a lump sum contract, upon completion of the Work Owner shall pay Contractor an amount which, when added to any payments theretofore made to Contractor under this Contract, bears the same ratio to the total Contract price as the amount of the Work completed by Contractor prior to the effective date of termination bears to the total amount of the Work; provided, however, that if Owner's costs to complete the Work exceed the unpaid balance of the Contract price (taking into account all previous payments to Contractor and the amount otherwise payable to Contractor in accordance with the foregoing), Contractor shall be liable to Owner for such excess costs. Owner shall be entitled to deduct the amount of such excess costs from any amounts payable to Contractor under this Contract including, but not limited to, any amounts payable in accordance with this section.

(4) If Owner takes possession of Contractor's equipment in accordance with section 35(c), Owner shall pay Contractor for the time such equipment is used by Owner. If applicable rental rates are not set forth in Exhibit B, the rental rates shall be determined by mutual agreement or, if the parties are unable to agree, the rental rates shall be based on the Associated Equipment Distributors rental rates in effect while such equipment is used by Owner.

(5) Owner may, at its option, assume and become liable for Contractor's obligations with respect to any or all materials, supplies, equipment and unperformed services that Contractor may have theretofore in good faith undertaken or incurred in connection with the Work prior to receiving the notice of termination, regardless of whether such materials, supplies and equipment were delivered to the worksite prior to the date of termination.

(g) Owner's right of termination under this section shall not be in lieu of or in limitation of Owner's right to require the deletion of any part of the Work in accordance with section 4.

36. SUSPENSION OF THE WORK.

(a) Owner may, at its option, suspend performance of the Work, in whole or in part, at any time upon written notice to Contractor. Such notice shall specify the date upon which such suspension shall be effective. Upon subsequent written notice from Owner, Contractor shall promptly resume the performance of the Work.

(b) Contractor's activities subsequent to the effective date of suspension shall be confined to those necessary for an orderly suspension and to comply with the instructions in the suspension notice.

37. WARRANTIES OF THIRD PARTIES. Unless otherwise agreed in writing by Owner, Contractor shall obtain from each vendor and manufacturer furnishing any material or equipment to be incorporated in the Work a warranty extending to Owner and Contractor that such material and equipment shall (i) be new, except as otherwise provided in this Contract, (ii) be free from defects in design, workmanship and materials and (iii) conform to generally recognized standards of quality and fitness for purpose. Such warranty shall be for a period of not less than 18 months from the date of delivery or 12 months from the date of initial production service, whichever shall first occur. Unless otherwise agreed in writing by Owner, Contractor shall include in each subcontract entered into under this Contract a warranty extending to Owner and Contractor against defects in design, workmanship and materials. Such warranty shall provide that (i) the subcontractor shall correct, at its expense, any defects in design, workmanship or materials which are discovered during the one-year period that commences on the date of acceptance of such subcontractor's work and (ii) if the subcontractor fails to correct such defects promptly after receipt of notice from Owner of such defects, Owner may, at its option, correct such defects and charge the costs of such corrections to the subcontractor. Contractor shall assist Owner to the extent requested by Owner in the enforcement of such warranties.

38. CLAIMS. Any claim of Contractor against Owner for an extension of time, extra compensation or damages shall be conclusively deemed to have been waived by Contractor, unless such claim is set forth in a written notice delivered to Owner within 30 days after the conditions upon which such claim is based became known to Contractor; provided, however, that if any other provision of this Contract establishes a shorter period of time for Contractor's filing of a claim, such shorter period of time shall apply to such claim. Such notice shall include itemized supporting data specifically identifying each and every element of cost that Contractor claims to have incurred or claims that it will incur.

39. CONFIDENTIALITY.

(a) The term "Information" means (i) business or technical information furnished by or for Owner to Contractor and (ii) technical information which is conceived or developed by or for Contractor or any of its subcontractors in the performance of the Work and is more pertinent to Owner's business than to the part of Contractor's or its subcontractor's business which conceived or developed it.

(b) Contractor shall hold Information in confidence and use it only to perform the Work except to the extent Owner otherwise authorizes in writing.

(c) Contractor shall, if it has not already done so, enter into appropriate written agreements with all its directors, officers and employees having access to Information, obligating such directors, officers and employees to use and disclose Information only in connection with the performance of the Work. In addition, Contractor shall provide written notice to such directors, officers and employees, identifying the source of Information and explaining its confidential nature and their obligations with respect to it.

(d) Contractor may disclose Information to its directors, officers, employees, representatives, subcontractors, vendors and suppliers, but only to the extent necessary to perform the Work, and only if the discloser agrees to have the same obligations that Contractor has under this section. Contractor shall use its best efforts to ensure that such disclosers honor their obligations.

(e) Contractor shall not in any manner advertise, publish or release for publication any statement mentioning Owner, this Contract or Contractor's performance of, or contracting to perform, the Work without Owner's prior written consent.

(f) Contractor shall not permit visitors, cameras or picture taking at the worksite without Owner's prior written consent.

(g) Contractor's obligations under this section shall not apply to Information which has become published otherwise than as a result of unauthorized disclosure or use by Contractor, or which has been rightfully disclosed to Contractor by a third party. Specific information shall not be deemed to be within these exceptions merely because it is embraced by general Information within them, nor shall a combination of portions of Information be deemed to be within these exceptions merely because the individual portions are within them. Information shall be deemed to be outside these exceptions until Contractor can show, by reference to dated documents, that it is within them.

(h) Owner shall have no obligation of nondisclosure or nonuse with respect to any information furnished by Contractor or any of its subcontractors, except as may be expressed in an agreement signed by an officer of Owner.

40. CONTINUATION OF THE WORK. In the event of a dispute or controversy between Owner and Contractor or between Contractor and any other person (including, but not limited to, a dispute or controversy relating to this Contract or the interpretation of any Contract documents, the performance of any portion of the Work or the payment of any money), Contractor shall, unless otherwise directed by Owner, continue to perform the Work without interruption pending the resolution or settlement thereof, and Contractor shall not, either directly or indirectly, stop or delay the performance of the Work.

41. COMPLIANCE WITH APPLICABLE LAWS. Contractor shall comply with all applicable statutes, laws, ordinances, codes, orders, rules, regulations, proclamations and other governmental requirements, and all provisions required thereby to be included in this Contract are incorporated by reference; provided, however, that if Owner has specified standards more stringent than those provided in such statutes, laws, ordinances, codes, orders, rules, regulations, proclamations and governmental requirements, Contractor shall comply with such more stringent standards.

42. SETOFF. Owner shall be entitled to setoff any amount owed by Owner in connection with this Contract against any amount owed to Owner or any of Owner's affiliates by Contractor or any of Contractor's affiliates.

43. REMEDIES ARE CUMULATIVE. Each of Owner's rights and remedies under this Contract and each warranty made by Contractor shall be cumulative and in addition to any other or further rights, remedies or warranties in this Contract or provided by law or in equity.

44. WAIVER OF JURY TRIAL. Each of the parties hereby waives its right to a trial by jury with respect to any claim or dispute which is in any way connected with, arises out of or results from this Contract or any of the work performed or to be performed under this Contract.

45. WAIVER. Owner shall not be deemed to have waived any right, power, privilege or remedy unless such waiver is in writing and duly executed by it. No failure to exercise, delay in exercising or course of dealing with respect to any right, power, privilege or remedy shall operate as a waiver thereof by Owner or of any other right, power, privilege or remedy. No exercise or partial exercise of any right, power, privilege or remedy shall preclude any other or further exercise thereof by Owner or the exercise of any other right, power, privilege or remedy by Owner.

46. SEVERABILITY. If any provision of this Contract, whether a section, sentence or any portion thereof, is determined by a court of competent jurisdiction to be null and void or unenforceable, such provision shall be deemed to be severed, and the remaining provisions of this Contract shall remain in full force and effect.

47. GOVERNING LAW. The laws of the state of the worksite shall govern the validity, interpretation, construction and effect of this Contract.

48. INTERPRETATION. The headings in this Contract are for convenience of reference only and shall not affect its interpretation or construction. When used in this Contract, the singular form shall include the plural, and vice versa. The terms "herein", "hereinbefore", "hereinafter", "hereunder" and "hereof" shall refer to the entirety of this Contract and shall not be limited in applicability to the section in which they appear.

49. NOTICES.

(a) Notices required or permitted by this Contract shall be in writing and shall be delivered to the following address of the party to be notified:

If to Owner:

REYNOLDS METALS COMPANY

P.O. Box 27003

Richmond, Virginia 23261

Attn: Corporate Secretary

with a copy to:

REYNOLDS METALS COMPANY-Sherwin Plant

P.O. Box 9911

Corpus Christi, Texas 78469

Attn: Frank Strickland

If to Contractor:

GILMAN INSULATION COMPANY INCORPORATED

P.O. Box 4074

Corpus Christi, Texas 78469

Attn: _____

A party may change its address for purposes of this section by giving the other party notice to that effect. A notice shall be considered given or made when delivered, unless mailed by prepaid U.S. express, registered or certified mail, with mailing evidenced by a receipt from the U.S. Postal Service, in which case it shall be considered given or made five days after mailing or when delivered, whichever first occurs.

50. ENTIRE AGREEMENT. This Contract, as to its subject matter, exclusively and completely states the rights and duties of the parties, sets forth their entire understanding and merges all prior and contemporaneous representations, promises, proposals, discussions and understandings by or between the parties. Except as provided in section 4, this Contract may be amended only by another written agreement duly executed by the parties.

Each of the parties therefore has caused this Contract to be executed by its duly authorized representative.

REYNOLDS METALS COMPANY

(Owner)

GILMAN INSULATION COMPANY, INCORPORATED

(Contractor)

By _____

By _____

(Typed or printed name)

(Typed or printed name)

Title _____

Title _____

CONSTRUCTION CONTRACT No. 55851-LQ
FORM R-379-1

EXHIBIT A: Scope of The Work and its Performance

To that certain Contract dated June 4, 1990 by and between _____
REYNOLDS METALS COMPANY and _____
GILMAN INSULATION COMPANY, INCORPORATED

Except as otherwise expressly provided herein, Contractor shall furnish all supervision, labor, materials, tools, equipment, unloading, hauling, taxes, (when applicable), insurance, supplies and services and other things necessary to perform Asbestos Abatement, and Reinsulation Work as described in Work Specification WS-LQ-1004 and all referenced documents.

The following documents are referenced and become a part of this Contract:

- 1) Asbestos Abatement Contract Work Plan Questionnaire
- 2) Detail Removal Specification
- 3) Asbestos Abatement Contractor Performance Questionnaire
- 4) ADDENDUM: Additional Asbestos Abatement Provisions -
Rev. Feb. 1990

NOTE: These four (4) documents indicate minimum requirements. These documents will be completed prior to each phase of the Time & Material work which is identified by Owner's Project Engineer.

- SAFETY PROCEDURE #151 and its supplement entitled - "CONTRACTOR TRAINING REQUIREMENTS"

- WS-LQ-192 R/10 entitled - "CONTRACTORS' GENERAL WORK CONDITIONS"

-RMC Form R-379-8 entitled - "REYNOLDS METALS COMPANY CORPORATED POLICY ON SUBSTANCE ABUSE FOR EMPLOYEES OF ITS SUPPLIERS, CONTRACTORS, AND SUBCONTRACTORS AT ALL TIERS"

-AFFIDAVIT, RELEASE AND WAIVER OF LIENS - Form R-379-5

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-REQUIRED DOCUMENTS: Prior to actual start of work against this Contract, Contractor must submit the following to the Owner's Sherwin Plant Purchasing Department.

- 1) Certification of Insurance (in duplicate) in at least the amounts shown in Article #27 above.
- 2) Original copy of this order signed and accepted by Contractor's duly authorized representative.

NOTE: Contractor will not be permitted to begin work until this Original Copy is returned to the Purchasing Department.

-EMPLOYEE INFORMATION: Furnish a list of your employees who will be working on this job and changes as they occur to our Security Department. Contractor must also have read and signed MSHA Hazard Training Information Sheet which will be furnished by the Project Engineer prior to beginning of The Work. Each of Contractor's employees will carry an identification badge with number while on Owner's property.

-SPECIAL INSTRUCTIONS: Reynolds Metals Company-Sherwin Plant is subject to the Safety Standards of Mine Safety and Health Administration. Contractor and any Subcontractors employed by Contractor will comply with Mine Safety and Health Administration Standards on all materials and work which Contractor or Subcontractor performs.

-WASTE DISPOSAL: Waste generated as a result of performance of The Contract will be prepared and disposed of by others.

-Contractor shall determine whether the product(s) purchased through this order are hazardous substances as defined by OSHA and EPA in 29 CFR 1910.1200 and 40 CFR 370.2. If the product(s) are hazardous, Contractor, if it has not already done so, shall provide Buyer with current Material Safety Data Sheets (MSDS's) for such product(s), showing the EPA Hazard Classifications and Reynolds' purchase order number. MSDS's shall be directed to Walter Lew.

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Contractor acknowledges and understands that The Work performed hereunder involves asbestos as the term is defined in the Clean Air Act, 42 U.S.C. S7401 et seq., the Compensation and Liability Act 42 U.S.C. 9601 et seq. and other Federal and State and local Laws, rules, regulations, codes ordinances and standards. Contractor further acknowledges and understands that asbestos is hazardous to life, health, property and the environment. Contractor shall warn each person to whom Contractor resells, gives or delivers such asbestos or otherwise should reasonably foresee being exposed to such asbestos (including, but not limited to, Contractor's employees, subcontractors and customers) of the hazards associated with asbestos and shall take all actions necessary to protect such persons, property and the environment from such hazards.

In its removal, treatment, storage, transportation, disposal or other handling of asbestos Contractor shall follow all applicable laws, rules, regulations, codes, ordinances and other applicable standards. Any storage, transportation or disposal of asbestos by or on behalf of Contractor shall also be subject to the terms and conditions set forth in Owner's Form R-1943, a copy of which is attached hereto by reference. The terms of Form R-1943 shall prevail in the case of any inconsistencies between its terms and those contained herein. Contractor shall protect, defend, indemnify and hold Owner harmless from and against any and all claims, losses, damages, costs, actions, judgments, expenses and liabilities of every kind and character whatsoever (including, but not limited to attorneys' fees and costs and expenses of defense) which, either directly or indirectly, are in any way connected with, arise out of or result from the removal, treatment, storage, transportation, disposal or other handling of asbestos.

Contractor warrants that it is experienced in handling asbestos and that Contractor, its employees, and subcontractors have obtained all licenses, permits and other approvals necessary to perform The Work hereunder and that it shall maintain all such licenses, permits and approvals until such work has been fully completed and the attached Asbestos Abatement Contractor Questionnaire and that the information provided therein is true, correct and complete.

Req. 20145 220 LQ-544 W/O 004544 B.Hamblin/E.Peterson/J.Barbee
(Insulation Repairs-Fac.300)

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CONSTRUCTION CONTRACT No. 55851-LQ
FORM R-379-2

EXHIBIT B: Compensations and Payments

To that certain Contract dated June 4, 1990 by and between _____
REYNOLDS METALS COMPANY and _____
GILMAN INSULATION COMPANY, INCORPORATED

-AMOUNT TO BE PAID: Payment will be made on a Time and Material basis per attached Rate Sheets entitled - ATTACHMENT "A" and consisting of six (6) pages.

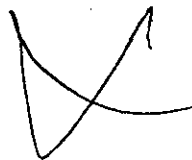
-Contract shall not exceed.....\$500,000.00

-FINAL PAYMENTS: Upon completion and final acceptance of all The Work required by this Contract, Contractor shall submit two (2) completed "Affidavit, Release and Waiver of Liens," Form R-379-5, which are attached for this purpose, and then the amount due Contractor under this Contract and then unpaid shall be paid upon the presentation of a properly executed and duly certified invoice therefor. If Contractor's claim to amounts payable under this Contract has been assigned, such a release may also be required from the Assignee.

-INVOICE INSTRUCTIONS: Contractor to show material and Labor as separate items, identifying Asbestos Abatement Work and Non-Asbestos Abatement work on all invoices. All Invoices will be substantiated with Rate Sheets and other required documentation.

Req. 20145 220 LQ-544 W/O 004544

B.Hamblin/E.Peterson/J.Barbee
(Insulation repairs - Fac.300)



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