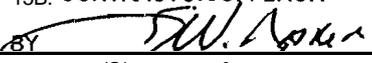
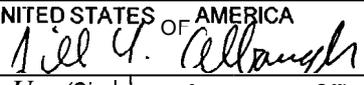
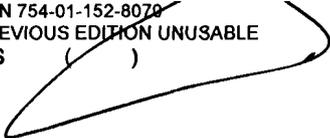


AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		11. CONTRACT 10 CODE AC	1 PAGE 1 of 7 PAGES
2. AMENDMENT/MODIFICATION NO. M197	13. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO. NOPR	5. PROJECT NO. (If applicable)
6. ISSUED BY U.S. Department of Energy National Nuclear Security Administration P.O. Box 2050 Oak Ridge, TN 37831		7. ADMINISTERED BY (If other than Item 6) CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, state, ZIP Code) Babcock & Wilcox Technical Services Y-12, LLC P.O. Box 2009 MS 8014 Oak Ridge, TN 37831-8014		9A. AMENDMENT OF SOLICITATION NO.	
		9B. DATED (SEE /TEM 11)	
		10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC05-000R22800	
		10B. DATED (SEE ITEM 13) August 31, 2000	
CODE	FACILITY CODE		
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS			
<input type="radio"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="radio"/> is extended, <input type="radio"/> is not extended.			
<p>Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning ____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>			
12. ACCOUNTING AND APPROPRIATION DATA (If required): This action obligates \$ 0			
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS; IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.			
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority): THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.			
B. THE ABOVE-NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (Such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.1 03(b).			
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:			
X D. OTHER (Specify type of modification and authority): P.L. 95-91 and P.L.85-804			
E. IMPORTANT: Contractor is reQuired to sian this document and return 2 copies to the issuina office.			
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasib/e.)			
<p>The purpose of this modification is to add a clause H.62 and amend clause 1.124 pertaining to Public Law 85-804 to this contract. See page 2 for specific changes.</p> <p>Except as provided herein, all terms and conditions of the document referenced in Items 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.</p>			
15A. NAME AND TITLE OF SIGNER (Type or print) Scott W. Baker, Senior Vice President Business Services		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Jill Y. Albaugh Contracting Officer	
15B. CONTRACTOR/OFFEROR BY  (Signature of _____ to sign)	15C. DATE SIGNED 11-30-09	16B. UNITED STATES OF AMERICA BY  U (Signature of _____ Officer)	16C. DATE SIGNED 11-30-09

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The purpose of this modification is to add Clause H. 62 to the contract and modify clause 1.124 FAR 52.250-1 as authorized by the Secretary of Energy (Steven Chu) in a Memorandum of Decision signed on November 3, 2009. It is noted for historical reference that prior to this Modification M197, the definition of "unusually hazardous or nuclear risks" included in H.62 a.(1), (3), and (4) was contained in clause 1.124 as (j)(1), (2) and (3). Specific changes approved by the Secretary of Energy are as follows:

1. The definition of "unusually hazardous or nuclear risks" contained at 1.124(j) will be removed from the 1.124 clause and incorporated into a new H.62 clause specific to that purpose in order to eliminate the requirement for an unnecessary deviation to the definition of risk contained in the Federal Acquisition Regulation.
2. The existing indemnification is modified by adding new paragraphs a.(2)(i) and (ii) in the H.62 clause covering activities involving the supply and return of non-commercial grade uranium.
3. The H.62 clause updates the indemnification to be consistent with the current DOE/NNSA organization structure. Language in paragraph (j)(1)(ii) of 1.124 clause referring to the "Senior Advisor to the Secretary of Energy for Nonproliferation and Director of Arms Control and Nonproliferation; or Director, Nonproliferation and National Security" has been updated in the H.62 clause to reflect the "Under Secretary for Nuclear Security, the Principal Deputy Administrator, or the relevant Deputy Secretary." [See H.62 a.(1)(ii)] References to DOE/NN-42 in paragraph (j)(1)(iv) of the 1.124 clause are deleted and replaced by references in the H.62 clause to reflect DOE/NA-24 [See H.62 a.(1)(iv)].

1. Add the following clause to the contract:

H.62 DEFINITION OF UNUSUALLY HAZARDOUS OR NUCLEAR RISK FOR FAR
CLAUSE 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804 (November
2009)

- a. The term "a risk defined in this contract as unusually hazardous or nuclear" as used in the current contract clause means the risk of legal liability to third parties (including legal costs as defined in paragraph jj. of Section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2014, notwithstanding the fact that the claim or suit may not arise under section 170 of said Act) arising from actions or inactions in the course of the following performed by the Contractor under this contract:
 - (1) Activities on behalf of the Department of Energy involving weapons usable material in a nonproliferation effort on behalf of the United States, outside the United States, as described in (i) through (iv):
 - (i) The Department of Energy's transparency monitoring activities in Russia under the U.S.-Russian Agreement Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons dated January 18, 1993; and any extension or modification thereof;
 - (ii) Inspection, packaging, transportation, and storage of weapons usable nuclear material located in the Former Soviet Union,

including Russia, provided that the work has been directed by the Deputy Secretary, the Under Secretary for Nuclear Security, the Principal Deputy Administrator, or relevant Deputy Administrator.

- (iii) Participation in the Department of Energy's nuclear materials protection and accountability programs in Russia, Ukraine, Kazakhstan, and Belarus, including developing such systems and consulting and training individuals, or international inspectors on such systems under the:

Agreement between the Department of Energy of the United States of America and the Federal Nuclear and Radiation Safety Authority of the Russian Federation to Cooperate on National Protection, Control, and Accounting of Nuclear Materials dated 2 October 1999.

Agreement between the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Kazakhstan concerning Control, Accounting, and Physical Protection of Nuclear Material to Promote the Prevention of Nuclear Weapons Proliferation dated 13 December 1993;

Agreement between the Department of Defense of the United States of America and the Ukrainian State Committee on Nuclear and Radiation Safety concerning Development of State Systems of Control, Accounting, and Physical Protection of Nuclear Materials to Promote the Prevention of Nuclear Weapons Proliferation from Ukraine dated 18 December 1993;

Agreement between the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Belarus concerning Control, Accounting, and Physical Protection of Nuclear Material to Promote the Prevention of Nuclear Weapons Proliferation dated 23 June 1995;

Joint Statement by the Secretary of Department of Energy of the United States of America and the Minister of the Russian Federation for Atomic Energy on Control, Accounting, and Physical Protection of Nuclear Materials dated 30 January 1996;

Joint Statement by the Secretary of Department of Energy of the United States of America and the Minister of the Russian Federation for Atomic Energy on Protection, Control, Accounting of Nuclear Materials dated 30 June 1995;

- (iv) Agreement between the United States of America and the Government of the Russian Federation on the Exchange of Technical Information in the Field of Nuclear Warhead Safety and Security dated 16 December 1994. This Agreement referred to as WSSX is the Agreement under which DOE/NA-24 Russian Lab-to-Lab Warhead Dismantlement Transparency Program is proceeding; and other work as directed by the Department of Energy, if the

President of the United States, the Secretary of Energy, the Deputy Secretary of Energy, or the Under Secretary of Energy specifically approves making the indemnity provided by this clause applicable to such work.

- (2) Activities on behalf of the Department of Energy involving the supply or return of enriched uranium in a nonproliferation effort on behalf of the United States, as described in (i) through (ii):
 - (i) Supply of non-commercial grade uranium (typically enriched to greater than five (5) percent of the uranium-235 isotope) to authorized foreign entities for nonproliferation purposes, including but not limited to the supply of non-commercial grade uranium under the Reduced Enrichment for Research and Test Reactors program. Supply activities include project planning and management, material processing, packaging, loading, transportation planning, delivery and monitoring; and
 - (ii) Assistance in the Department of Energy's activities under the Global Threat Reduction Initiative to remove and/or return non-commercial grade uranium (typically enriched to greater than five (5) percent of the uranium-235 isotope) to the United States or to another country for its disposition or protection. Assistance includes project planning and management, material loading, observation, container leak testing and tamper indicating device applications, technical support, and transportation and packaging support.
- (3) Other United States-sponsored activities outside the United States, as requested or approved by the President of the United States, the Secretary of Energy, the Deputy Secretary of Energy, or the Under Secretary for Nuclear Security and provided that the request or approval specifically makes the indemnity provided by this clause applicable thereto, involving:
 - (i) Transparency monitoring activities;
 - (ii) Inspection, packaging, transportation, and storage of weapons-useable nuclear material;
 - (iii) Nuclear materials protection, control and accountability programs known as the Material Protection Control and Accounting Systems;
 - (iv) Other nonproliferation work relating to weapons-useable nuclear material.
- (4) As requested or approved by the President of the United States, the Secretary of Energy, the Deputy Secretary, or the Under Secretary for Nuclear Security, non-proliferation, emergency response, antiterrorism and similar critical national security activities involving the use, detection, identification, assessment, control, containment, dismantlement, characterization, packaging, transportation, movement, storage, or

disposal of nuclear, radiological, chemical, biological, or explosive materials, facilities and/or devices; provided that the activity relates to materials that are weapons usable or otherwise have the potential for mass destruction and further provided that the request or approval specifically makes the indemnity provided by this clause applicable to that particular activity.

- b. The unusually hazardous or nuclear risks described above are indemnified only to the extent that they are not covered by the Price-Anderson Act (section 170d. of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 221 Od.) or where the indemnification provided by the Price-Anderson Act is limited by the restriction on public liability imposed by section 170e. of the Atomic Energy Act of 1954, as amended, (42 U.S.C. Section 2210e) to an amount which is not sufficient to provide complete indemnification for the legal liability to which the contractor is exposed.

(End of Clause)

2. The following clause 1.124 FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804 (April 1984) (Alternate 1)(Modified) is modified during November 2009 as follows:

1.124 FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85-804 (April 1984) (Alternate 1)(Modified)

- (a) "Contractor's principal _____ as used in this clause, means directors, officers, managers, superintendents, or other representatives supervising or directing
 - (1) All or substantially all of the Contractor's business;
 - (2) All or substantially all of the Contractor's operations at anyone plant or separate location in which this contract is being performed; or
 - (3) A separate and complete major industrial operation in connection with the performance of this contract
- (b) Under Public Law 85-804 (50 U.S.C. 1431-1435) and Executive Order 10789, as amended, and regardless of any other provisions of this contract, the Government shall, subject to the limitations contained in the other paragraphs of this clause, indemnify the Contractor against:
 - (1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death; personal injury; or loss of, damage to, or loss of use of property;
 - (2) Loss of, damage to, or loss of use of Contractor property, excluding loss of profit; and
 - (3) Loss of, damage to, or loss of use of Government property, excluding loss of profit.
- (c) This indemnification applies only to the extent that the claim, loss, or damage (1) arises out of or results from a risk defined in this contract as unusually hazardous or nuclear and (2) is not compensated for by insurance or otherwise. Any such claim, loss, or damage, to the extent that it is within the deductible amounts of

the Contractor's insurance, is not covered under this clause. If insurance coverage or other financial protection in effect on the date the approving official authorizes use of this clause is reduced, the Government's liability under this clause shall not be increased as a result.

- (d) When the claim, loss, or damage is caused by willful misconduct or lack of good faith on the part of any of the Contractor's principal officials, the Contractor shall not be indemnified for
 - (1) Government claims against the Contractor (other than those arising through subrogation); of
 - (2) Loss or damage affecting the Contractor's property.
- (e) With the Contracting Officer's prior written approval, the Contractor may, in any subcontract under this contract, indemnify the subcontractor against any risk defined in this contract as unusually hazardous or nuclear. This indemnification shall provide, between the Contractor and the subcontractor, the same right and duties, and the same provisions for notice, furnishing of evidence or proof, and Government settlement or defense of claims as this cause provides. The Contracting Officer may also approve indemnification of subcontractors at any lower tier, under the same terms and conditions. The Government shall indemnify the Contractor against liability to subcontractors incurred under subcontractor provisions approved by the Contracting Officer.
- (f) The rights and obligations of the parties under this clause shall survive this contract's termination, expiration, or completion. The Government shall make no payment under this clause unless the agency head determines that the amount is just and reasonable. The Government may pay the Contractor or subcontractors, or may directly pay parties to whom the Contractor or subcontractors may be liable.
- (g) The Contractor shall
 - (1) Promptly notify the Contracting Officer of any claim or action against, or any loss by, the Contractor or any subcontractors that may reasonably be expected to involve indemnification under this clause;
 - (2) Immediately furnish to the Government copies of all pertinent papers the Contractor receives;
 - (3) Furnish evidence or proof of any claim, loss, or damage covered by this clause in the manner and form the Government requires; and
 - (4) Comply with the Government's directions and execute any authorizations required in connection with settlement or defense of claims or actions.
- (h) The Government may direct, control or assist in settling or defending any claim or action that may involve indemnification under this clause.
- (i) The cost of insurance (including self-insurance programs) covering a risk defined in this contract unusually hazardous or nuclear shall not be reimbursed except to the extent that the Contracting Officer has required or approved this insurance.

The Government's obligation under this clause are

- (1) Excepted from the release required under this contract's clause relating to allowable cost; and
- (2) Not affected by this contract's Obligation of Funds clause.

(End of clause)