

THIS AGREEMENT is made in duplicate

BETWEEN:

ATOMIC ENERGY OF CANADA LIMITED/

ENERGIE ATOMIQUE DU CANADA LIMITEE

(hereinafter called "AECL")

and

THE DEPARTMENT OF ENERGY OF THE UNITED  
STATES OF AMERICA

(hereinafter called "US/DOE")

WHEREAS AECL is involved in the comprehensive Canadian Nuclear Fuel Waste Management Program to study the management of nuclear fuel wastes;

AND WHEREAS US/DOE is involved in the development of a nuclear waste management system including the site characterization program at Yucca Mountain in Nevada;

AND WHEREAS by agreement dated the 25th day of August, 1982, as extended (hereinafter called the "Master Agreement") AECL and US/DOE (hereinafter called the "Parties") agreed to cooperate in the study of topics relating to the management of radioactive wastes, including preparation and packaging of radioactive wastes and disposal in geologic formations;

AND WHEREAS the Master Agreement provides that the Parties may carry out their cooperation by means of a Joint Project for which an appropriate Subsidiary Agreement shall be entered into by the Parties;

AND WHEREAS the Parties now wish to enter into a Subsidiary Agreement providing for a Joint Project to study the preparation and packaging of radioactive wastes and disposal in geologic formations;

AND WHEREAS US/DOE's participation in said Joint Project is in furtherance of, and consistent with, the Nuclear Waste Policy Amendments Act of 1987, including Sections 160 and 161(c);

NOW THEREFORE in consideration of the mutual covenants contained herein, the Parties agree that they shall carry out a Joint Project to study the preparation and packaging of radioactive wastes and the disposal in geologic formations in accordance with the terms and conditions contained in this Subsidiary Agreement No. 2 to the Master Agreement.

## 1.0 OBJECTIVE OF COOPERATION

- 1.1 The objective of the Parties' cooperation under this Agreement is to carry out a joint experimental and analytical research project (hereinafter called the "Project") on topics related to the management of radioactive wastes including preparation and packaging of radioactive wastes and disposal in geologic formations. The Project is to be conducted at AECL's research facilities or AECL contractor facilities to be specified by AECL, at US/DOE or US/DOE contractor facilities to be specified by US/DOE, and other facilities as specified herein.
- 1.2 It is understood and agreed that the Project referred to in clause 1.1 constitutes a "Joint Project" within the meaning of clauses 3.5 and 5.0 of the Master Agreement.

## 2.0 SCOPE OF WORK

The work to be performed by the Parties in carrying out the Project is described in Annex 1, which is attached hereto and forms an integral part of this Agreement.

## 3.0 US/DOE RESPONSIBILITIES

- 3.1 In order to carry out the Project, US/DOE shall, at its own expense:
  - (a) Make available to AECL all background information in the fields of preparation and packaging of radioactive wastes and disposal in geologic formations which is necessary to carry out the Project and which US/DOE has the right to disclose.
  - (b) Participate in the preparation of the reports described in clauses 9.11 and 9.12.
  - (c) Provide necessary technical assistance to AECL or AECL contractors, as described in Annex 1, through the review and analysis of plans, designs, and technical results.
  - (d) Provide necessary technical support to AECL or AECL contractors, as described in Annex 1, through the assignment of US/DOE or US/DOE contractor personnel to AECL or AECL contractor facilities.
  - (e) Provide special testing equipment, instruments, and associated facilities for carrying out the work as described in Annex 1.
- 3.2 US/DOE shall provide funds to AECL in accordance with clause 9.0.

#### 4.0 AECL RESPONSIBILITIES

4.1 In order to carry out the Project, AECL shall, either at its own expense or with funds to be provided by US/DOE under this Agreement:

- (a) Make available to US/DOE all Background Information in the fields of preparation and packaging of radioactive wastes and disposal in geologic formations which is necessary to carry out the Project and which AECL has the right to disclose.
- (b) Participate in the preparation of the reports described in clauses 9.11 and 9.12.
- (c) Provide necessary technical assistance to US/DOE or US/DOE contractors, as described in Annex 1, for carrying out the work.
- (d) Provide necessary technical support to US/DOE or US/DOE contractors, as described in Annex 1, through the assignment of AECL or AECL contractor personnel to US/DOE or US/DOE contractor facilities.
- (e) Provide special testing equipment, instruments, and associated facilities required for carrying out the work as described in Annex 1.

4.2 Subject to clause 10.2(a), AECL shall have the authority to enter into contracts for the procurement of goods and services the cost of which is to be paid for in part with funds provided by US/DOE to AECL under this Agreement, provided that such procurement is authorized in a budget approved by the Project Directors. AECL shall carry out such procurements in accordance with its Standard Policies and Procedures, and where consistent with the expeditious carrying out of the work, AECL shall, to the greatest extent practicable, utilize competitive procurement and fixed price contracting methods.

#### 5.0 PROJECT MANAGEMENT

5.1 Each of the Parties shall appoint a Project Director who shall have the following responsibilities:

- (a) Planning, organizing, integrating, coordinating and controlling the Project activities to assure that the objectives, costs, schedules, personnel resources and supporting activities by each Party are accomplished in conformance with this Agreement and the Master Agreement between AECL and the US/DOE.

- (b) Approving the annual budgets for each of the Tasks described in Annex 1, and coordinating the annual allocation of available funds to each of those Tasks.
  - (c) Implementing any changes to the activities and administration of the Project, including changes in the scope of work as described in Annex 1 and the Parties' respective financial contributions thereto, that either Party may propose during the term of this Agreement.
  - (d) Negotiating any extension to the term of this Agreement and any documents necessary to effectuate such extension.
  - (e) Resolving any logistical, administrative or personnel problems arising from carrying out the Project which cannot be satisfactorily handled by the Task Managers.
  - (f) Maintaining participation, as necessary, from his or her Party's Project offices.
  - (g) Resolving any disputes or differences that may arise between Task Managers.
  - (h) Determining the extent and distribution of internal Project documentation except as otherwise specifically provided in this Agreement.
  - (i) Submitting and receiving any notices that are required or permitted to be sent under this Agreement.
  - (j) Agreeing to the attachment of personnel under this Agreement and the terms and conditions thereof.
  - (k) Handling such other matters as may be, from time to time, assigned by mutual agreement of the Parties.
- 5.2 (a) For greater certainty, it is agreed that the two Project Directors may make changes to the Project, provided such changes are within the scope of work described in this Agreement, do not require any increase in either Party's financial contribution to the Project, and do not require any extension to the term of this Agreement.
- (b) Where the Project Directors agree to make a change described in paragraph (a) above, they shall record their agreement by an exchange of letters in which each shall expressly state that, in his/her opinion, the change is one which may be made by the Project Directors under this clause 5.2.

- (c) All changes to the Project other than those referred to in paragraph (a) above, shall be made by a formal amendment to this Agreement which shall be executed by the duly authorized signing officers of both Parties.
- 5.3 Any dispute or difference referred to, or arising between, the Project Directors which cannot be resolved shall be referred to the Technical Coordinators designated by the Parties under the Master Agreement for resolution.
- 5.4 Each of the Project Directors shall appoint, from within his/her organization, eight Task Managers. Each Task Manager shall be responsible for the work to be performed under one of the eight Tasks described in Annex 1. All decisions made and actions taken in carrying out this responsibility, including those regarding the scope of work, cost and scheduling, shall be by the mutual agreement of the two Task Managers concerned. Each Task Manager shall report to his/her Project Director.
- 5.5 The specific responsibilities of the Task Managers shall include, but not be limited to:
- (a) Defining and conducting the work to be carried out under the Task and jointly coordinating the work as required to assure its completion.
  - (b) Preparing work schedules for the Task and, when necessary, coordinating such schedules with those relating to other Tasks being carried out under the Project.
  - (c) Defining personnel requirements for the Task, scheduling the assignment of personnel to AECL or AECL contractor facilities or to US/DOE or US/DOE contractor facilities, as the case may be, and allocating specific work to all such personnel.
  - (d) Ensuring that all data produced in the course of carrying out the Tasks are promptly and efficiently processed and/or collated into forms suitable for assessment by both Parties.
  - (e) Preparing reports on the status of the Task in accordance with clauses 9.11 and 9.12 and ensuring such reports are promptly forwarded to the Project Directors and to such other persons as the Project Directors may direct.
  - (f) Handling such other administrative and technical matters as may be, from time to time, assigned by the Project Directors.
  - (g) Defining Background Information necessary for carrying out the Project either prior to or during the conduct of the work.

## 6.0 CIGAR LAKE SPECIAL PROVISIONS

- 6.1 The Cigar Lake Mining Corporation (hereinafter referred to as "CLMC"), has volunteered to allow AECL and other parties to use its site and certain CLMC information under special restrictive conditions. Accordingly, notwithstanding any provision of this Agreement to the contrary, the carrying out of the Cigar Lake Task as described in Annex 1 shall be subject to the special provisions applicable thereto as set out in clause 6.3.
- 6.2 It is acknowledged and agreed that access to the Cigar Lake site and the taking of samples from the chemical and physical environment at that site may only be carried out with the permission of CLMC.
- 6.3 It is agreed by the Parties that, in the course of carrying out the Cigar Lake Task, set forth in Annex 1:
  - (a) AECL shall be the sole interface with CLMC on all matters relating to such Task.
  - (b) US/DOE does not envision that access by US/DOE or US/DOE contractor personnel to CLMC's property at which the Cigar Lake Task is being carried out will be required in carrying out the Cigar Lake Task. In the event that US/DOE or US/DOE contractors may require access to CLMC's property, such access shall be subject to CLMC's prior permission which shall be obtained through AECL for US/DOE.
  - (c) When CLMC grants permission for US/DOE or US/DOE contractor personnel to have access to CLMC property, as set out in paragraph (b) hereof, US/DOE shall provide to AECL and AECL shall in turn provide to CLMC, prior to the exercise of such rights of access, the names of all such personnel and a schedule of visits for all such personnel. Any additional arrangements for access to CLMC property by US/DOE or US/DOE contractor personnel will be mutually agreed upon by the Project Directors.
  - (d) Both Parties envision that CLMC will not be required to provide to US/DOE or US/DOE contractors any assistance of any kind in carrying out US/DOE's participation in the Cigar Lake Task. In the event that CLMC assistance is required in carrying out US/DOE's participation in the Cigar Lake Task, the estimate of costs to be incurred by CLMC in connection therewith and the obligation to pay such costs will be mutually agreed upon by the Project Directors.

- (e) Where CLMC discloses to US/DOE or US/DOE contractors, through AECL, information that it regards as confidential, which information shall be so marked by CLMC, US/DOE agrees, to the extent allowed by law, not to disclose and shall ensure that US/DOE contractors shall not disclose such information to any other Party without having first obtained, by means of written communication from AECL, the permission of CLMC to so disclose such information. This restriction shall not apply to information which is already generally available to the public, is already available to US/DOE on an unrestricted basis, or is or becomes available from any source, including CLMC, without restriction.
  - (f) All information of whatever nature provided by CLMC to US/DOE or US/DOE contractors, through AECL, shall be used by US/DOE or US/DOE contractors for the sole purpose of achieving the objectives of cooperation as stated in clause 1.1.
  - (g) All information generated by US/DOE or US/DOE contractors from the Cigar Lake Task, whether separately or jointly with AECL, shall be provided to CLMC through AECL.
  - (h) Any proposed release or publication of information by US/DOE or US/DOE contractors under this Task regarding Cigar Lake shall be submitted by US/DOE to AECL for review and approval prior to such release or publication. Such review and approval shall be for the sole purpose of preventing the disclosure of confidential information provided by CLMC. In the event of an AECL objection, the Project Directors shall mutually agree on a resolution of the objection to allow such release or publication in a manner consistent with the provisions of this clause 6.0 and the objectives of the Cigar Lake Task.
- 6.4 All participants in the Cigar Lake Analogue Study will have access to documented research information that has been produced jointly by AECL and Svensk Karnsbranslehantering AB (SKB) in the Cigar Lake Analogue Study and documented research information produced by all continuing participants in the Cigar Lake Analogue Study. All Cigar Lake Analogue Study documented research information shall be provided by AECL to US/DOE and US/DOE contractors without restriction. US/DOE shall be represented on the Steering Committee directing the Cigar Lake Analogue Study.

- 6.5 Annex 1 describes work that would be done by US/DOE under both the current Cigar Lake Phase 1 program and a Cigar Lake Phase 2 program. If a Cigar Lake Phase 2 program is not implemented or if AECL terminates the Cigar Lake Phase 1 program at any time, US/DOE reserves the right to conduct further study, research, and modeling of Cigar Lake samples provided by AECL under the Cigar Lake Phase 1 program, as described in Annex 1, without obligation to AECL except that clauses 6.3 (e), 6.3 (f), and 6.3 (h) shall continue in effect.

## 7.0 QUALITY ASSURANCE

- 7.1 Prior to carrying out any work under any of the eight Tasks described in Annex 1, the Task Managers shall review the Quality Assurance to be applied to that work.
- 7.2 Subject to clause 7.4, it is agreed that where any activity is to be performed in an AECL or AECL contractor's facility, including work done by AECL at the Cigar Lake site, the Quality Assurance to be applied shall be that normally used by AECL or AECL's contractor.
- 7.3 Subject to clause 7.4, it is agreed that where any activity is to be performed in a US/DOE or US/DOE contractor's facility, the Quality Assurance to be applied shall be that normally used by US/DOE or US/DOE's contractor.
- 7.4 Where, with respect to an activity described in clause 7.2 or 7.3, US/DOE or AECL, as the case may be, determines that additional Quality Assurance is required, that Party shall propose such additional requirements by means of a Quality Assurance Plan to be submitted to the other Party's Project Director for review and approval. The Project Directors shall, by agreement, determine which Party shall be responsible for implementing such additional requirements, provided, however, that all incremental costs associated with such implementation shall be borne by the Party proposing such additional requirements.

## 8.0 TERM OF AGREEMENT

- 8.1 This clause 8.0 shall supersede clause 17.0 of the Master Agreement.
- 8.2 This Agreement shall enter into force on the later of the two signature dates of the Parties. Subject to clause 13.0 TERMINATION, it shall remain in force until the expiration of the Master Agreement or until five years from the date when the Agreement enters into force, whichever occurs first. The period of performance of the work and the obligation to pay therefor may begin on or after April 1, 1991 and shall continue until the Agreement expires.

8.3 At least six (6) months prior to the expiry date of this Agreement, the Project Directors shall decide whether to extend the term of this Agreement in order to complete the Project and, if so, the period of time of the extension.

8.4 Where an extension referred to in clause 8.3 has been agreed, it shall be reflected in a written document executed by the Parties, and thereafter clause 8.2 of this Agreement shall be deemed to be amended in accordance with the terms of such written document.

#### 9.0 FINANCIAL CONSIDERATION

9.1 This clause 9.0 shall supersede clause 6.0 of the Master Agreement.

9.2 The estimated AECL contribution to the Project (hereinafter called the "AECL Contribution" or "AC"), the US/DOE contribution for technical activities (hereinafter called the "US/DOE Technical Contribution" or "TC"), and the US/DOE direct contribution to AECL (hereinafter called the "US/DOE Direct Contribution" or "DC") are shown in Table 1. The US/DOE direct contribution, not to exceed 5,249,000 Canadian dollars, shall be reimbursed to AECL, as described in clause 9.3.

9.3 (a) Monthly payment of the US/DOE Direct Contribution will be based on AECL's actual expenditures allowable for work under this Agreement. Specifically, the monthly payment will be determined during each year as the ratio of AECL's allowable costs incurred for the month for all tasks to the sum of the AC and DC in Table 1 for that year times the DC for that year. That is, during each year:

$$\text{DC Monthly Payment} = \frac{\text{Actual Monthly AECL Costs}}{(\text{AC} + \text{DC})_{\text{Yearly}}} \times \text{DC}_{\text{Yearly}}$$

The DC payments for any given year, when added to the DC payments for preceding years, shall not exceed the cumulative DC amount to that point in Table 1.

(b) If the DC payments for any given year, when added to the DC payments for preceding years, is less than the cumulative DC amount to that point in Table 1, the differential shall be available for monthly DC payments for the following year that exceed the DC for that year.

(c) If AECL's allowable costs for any given year exceed the sum of the AC and DC in Table 1 for that year, the differential shall be included as part of AECL allowable costs in the subsequent year for the purpose of determining the DC monthly payments in that subsequent year.

- (d) If, at the end of this Agreement, the sum of all of the DC payments over the period of the Agreement is less than the cumulative DC amount in Table 1, the differential shall accrue to US/DOE.
- 9.4 The Parties hereto shall utilize their best efforts to perform all the work hereunder within the total of their respective estimated contributions as set forth in Table 1. However, AECL shall be under no obligation to perform any work or incur any obligation with respect thereto, if the resulting calculation of DC monthly payment would exceed either the US/DOE Direct Contribution or the amount of funds currently obligated by US/DOE as set out in clause 9.9. Similarly, US/DOE shall be under no obligation to perform any work or incur any obligation with respect thereto, if the resulting cost would exceed the US/DOE Technical Contribution.
- 9.5 It is agreed that the currency of this Agreement shall be Canadian dollars.
- 9.6 The DC monthly payment under this Agreement shall be paid to AECL in accordance with the following provisions:
  - (a) The cost principles contained in AECL's Standard Policies and Procedures in effect on the effective date of this Agreement are hereby incorporated by reference into this Agreement, and shall be utilized to determine the allowability of AECL costs under this Agreement.
  - (b) AECL shall submit monthly invoices to US/DOE covering the DC monthly payment for the previous month. US/DOE shall remit to AECL payments in the amount of these invoices within ninety (90) days of receipt of these invoices by US/DOE.
  - (c) Payments of invoices by US/DOE shall be in Canadian dollars and shall be paid to the Bank of Montreal, Main Branch, Ottawa, 144 Wellington, Ottawa, for credit to AECL Account, Transit Number 5, Account No. 000002194.
- 9.7 AECL's Project Director shall promptly notify US/DOE's Project Director, in writing, when AECL has incurred costs that would cause its DC monthly payments to exceed seventy-five percent (75%) of the amount of funds currently obligated by US/DOE as set out in clause 9.9. AECL shall concurrently provide the US/DOE Project Director with a projected date by which it expects to incur costs that would cause its DC monthly payments to exceed one hundred percent (100%) of the amount of funds currently obligated by US/DOE as set out in clause 9.9. The projected costs will be based on the anticipated rate of expenditure.

- 9.8 In the event of cost overruns, each Party shall use its best efforts to achieve the Task objectives through revisions to the scope of work and/or by obtaining additional funding.
- 9.9 The amount of \$991,000 (CDN\$) has been obligated by US/DOE and is currently available for payment of the US/DOE Direct Contribution to AECL under this Agreement. The period of performance through which it is estimated this amount will cover is April 1, 1991 to September 30, 1991. The US/DOE will utilize its best efforts to obligate the current fiscal year's US/DOE Direct Contribution for this Project by December 31 of that year. In no event will US/DOE be responsible for payment of US/DOE Direct Contribution that exceeds the amount currently obligated in this clause 9.9. The amount of US/DOE's obligation may be increased unilaterally at any time by US/DOE by written notice to AECL, and may be decreased by written agreement of the Parties.
- 9.10 The Project Directors shall, on an annual US fiscal year basis, and by no later than October 15, except as otherwise agreed by the Project Directors, have prepared and shall approve a Project Plan outlining the technical scope of work for each Task together with the associated scheduling, personnel resource requirements and time-phased budgeting covering the remaining term of the Agreement. It is agreed by the Parties that the Project Plan approved under this clause shall take precedence over any inconsistent provision of Annex 1 and shall apply until revised, but shall not supersede the use of Table 1 for the purpose of determining the DC monthly payment.
- 9.11 With respect to all work performed by AECL under this Agreement, AECL shall prepare and submit to the US/DOE Project Director on a quarterly basis for all Tasks:
- (a) A schedule report which measures milestone status against the schedule included in the Project Plan. The report shall describe actual performance up to the end of the reporting period and forecasts for any future milestones which are not expected to be completed by the dates scheduled in the Project Plan.
  - (b) A Project Status Report which provides technical narrative, by Task, of the current status, accomplishments and problems of the Project.

- 9.12 For each task, the Task Managers shall jointly prepare and submit to the Project Directors technical progress reports (on a quarterly basis) and an annual report summarizing the technical accomplishments of, and information derived from, the Project for availability to the public in accordance with clause 11.6. Technical progress reports relating to work carried out in connection with all Tasks may be combined with the Project Status Reports for the same period.
- 9.13 Both US/DOE and AECL shall report to the other on an annual basis within ninety (90) days after the end of each US fiscal year all financial contributions they have made to the Project, including, but not limited to, technical support and assistance, etc. US/DOE's report need not include any reference to direct contribution to AECL. Said reports shall be in sufficient detail that each Party can determine that the other Party is meeting its financial commitment to the Project.
- 9.14 All reports, except those provided in clause 9.13, to be furnished shall be issued not later than forty-five (45) days after the end of a reporting period. The format and distribution list for each type of report shall be agreed upon by the Project Directors.

#### 10.0 OWNERSHIP OF FIXED ASSETS AND EQUIPMENT

- 10.1 This clause supersedes clause 12 of the Master Agreement except as specifically provided in clause 10.4 hereof.
- 10.2 It is understood, and agreed that, as between AECL and US/DOE:

(a) Title to

- (i) all lands, excavations, buildings, structures, constructed facilities and other similar works that are built or used in carrying out the Project (hereinafter collectively called "lands"), and
- (ii) all equipment, instruments, and associated facilities that are affixed to the lands (hereinafter collectively called "non-expendable equipment")

shall vest or remain vested, as the case may be, in the Party whose funds are used to pay for such lands or non-expendable equipment. In no event shall AECL utilize funds contributed by US/DOE for the purchase of such lands or non-expendable equipment.

- (b) Title to all equipment acquired by AECL that becomes expendable in the course of or at the end of the Project, whether paid for with AECL or US/DOE funds, shall vest in and remain in AECL.
- (c) Title to all equipment acquired by US/DOE that becomes expendable in the course of or at the end of the Project shall vest in and remain in US/DOE.
- (d) Where necessary, the Task Managers responsible for the carrying out of any particular Task shall determine whether equipment planned to be purchased by AECL with funds contributed by US/DOE will be expendable.

10.3 It is further agreed that:

- (a) In calculating its financial contribution in any future arrangement with US/DOE involving the use of any land or non-expendable equipment as described in clause 10.2(a) of this Agreement, AECL shall not include a capital charge for the use of such land or non-expendable equipment provided that such land or non-expendable equipment has been paid for under this Agreement.
- (b) In calculating its financial contribution in this Agreement or in any future arrangement with US/DOE involving the use of any land or equipment as described in clause 10.2 of Subsidiary Agreement No. 1 (hereinafter referred to as "SA1"), AECL shall not include a capital charge for the use of such land or equipment provided that such land or equipment has been paid for under SA1.
- (c) In calculating its financial contribution in any future arrangement with AECL involving the use of any land or non-expendable equipment as described in clause 10.2(a) of this Agreement, US/DOE shall not include a capital charge for the use of such land or non-expendable equipment provided that such land or non-expendable equipment has been paid for under this Agreement.

10.4 Where items other than those described in clause 10.2(a) are needed by one Party for use in carrying out the Project, the provisions of clause 12 of the Master Agreement shall apply with respect to the safekeeping and transportation thereof.

## 11.0 INFORMATION

11.1 The Parties support the widest possible dissemination of information provided or exchanged under this Agreement, subject to the need to protect proprietary information and to the provisions of this clause 11.0 and clauses 12.0, 15.0, and 16.0 of this Subsidiary Agreement.

11.2 In this Agreement:

- (a) "Project Information" means all scientific and technical information regardless of its form, that is developed, produced or acquired by either of the Parties in the course of carrying out the Project, and includes but is not limited to
    - (i) methods and results of, research, developmental, demonstration or engineering work, and
    - (ii) information that can be or is used to
      - (A) define, develop or produce a design or process, or
      - (B) procure, produce, operate or maintain material, equipment, instruments or facilities.
  - (b) "Background Information" means scientific or technical information in the fields of preparation and packaging of radioactive wastes or disposal in geologic formations that is developed, produced or acquired by either of the Parties, whether prior to or during the term of the Project but not in the course of carrying out the Project.
  - (c) "Proprietary Information" shall have the meaning assigned to that term under clause 9(2)(ii) of the Master Agreement.
- 11.3 Subject to clause 11.5, each Party shall promptly and fully disclose to the other Party all Project Information which it has developed, produced or acquired in the course of carrying out its participation in the Project. Such disclosure shall take place by means of the exchange of reports and by any other means that are mutually agreed by the Project Directors.
- 11.4 Subject to clause 11.5, both Parties shall have full and unrestricted rights to use, disclose, and reproduce, in any manner and for any purpose, Project Information which they or either of them have developed, produced or acquired in the course of carrying out the Project.

- 11.5 If either Party desires to acquire Proprietary Information of a third party, said Proprietary Information shall be used in the Project only after the Parties mutually agree in writing as to the terms and conditions for use in the Project and for use in practicing the results of the Project.
- 11.6 Prior to the publication of any particular Project Information by either Party, the Task Managers for the Task to which that particular Project Information relates shall review the proposed publication for accuracy and completeness. In any event, the Issuing Party may publish such Project Information fifteen (15) days after the Task Managers receive it for review unless otherwise agreed by the Task Managers.
- 11.7 It is understood and agreed that each Party (hereinafter called the "Sending Party") shall provide to the other Party (hereinafter called the "Receiving Party") Background Information that is necessary for carrying out the Project. Where such Background Information is Proprietary Information of the Sending Party, the following procedures shall apply:
- (a) The Sending Party shall clearly mark any document containing such Proprietary Information with the following or substantially similar legend:
- "This document contains Proprietary Information provided in confidence under Subsidiary Agreement No. 2, dated \_\_\_\_\_, between the United States Department of Energy (US/DOE) and Atomic Energy of Canada Limited/Energie atomique du Canada limitee (AECL). It shall not be disseminated outside of US/DOE (AECL), US/DOE (AECL) contractors and concerned departments and agencies of the Government of the United States (Canada) or be used by them or any of them for any commercial purpose without the prior written approval of AECL (US/DOE). This notice shall be marked on any reproduction hereof, in whole or in part. These limitations shall automatically terminate where this Proprietary Information is disclosed by AECL (US/DOE) without restriction."
- (b) The Receiving Party may disseminate such Proprietary Information to
- (i) persons employed by the Receiving Party and other concerned Government departments or agencies in the country of the Receiving Party and their contractors,

- (ii) prime or subcontractors of the Receiving Party located within the geographical limits of the Receiving Party's country, for use only within the framework of their contracts with the Receiving Party in work relating to the subject matter of the Proprietary Information,
- (iii) an "affected Indian tribe" as that term is defined in Sub-section 2(2) of United States Public Law 97-425,
- (iv) a "State", as that term is defined in Sub-section 2(24) of United States Public Law 97-425, that is at the effective date of this Agreement or within the term of this Agreement a potential host State for a geologic repository,
- (v) an "affected unit of local government" as that term is defined in Sub-section 2(31) of United States Public Law 97-425, as amended by Title V of United States Public Law 100-203,
- (vi) any office, agency or department of the Government of Canada responsible for carrying out an environmental assessment and review of the Canadian Nuclear Fuel Waste Management Program, any panel or other review body established by and reporting to such office, agency or department for the purpose of conducting such assessment and review and any other party who, in the opinion of such panel or other review body, is entitled to such Proprietary Information for the purpose of such assessment and review,
- (vii) any person appointed or retained by or on behalf of AECL to carry out or perform, for the benefit of AECL, a technical review of AECL's Canadian Nuclear Fuel Waste Management Program, and
- (viii) any person appointed or retained by or on behalf of the U.S. Government to carry out or perform, for the benefit of the U.S. Government, a technical review of the US/DOE's Civilian Radioactive Waste Management Program,

provided, that any such Proprietary Information shall be disseminated on a need-to-know basis pursuant to an agreement of confidentiality, shall be marked with the restrictive legend substantially identical to that appearing in subparagraph 11.7(a) above, and shall not be used for commercial purposes without the consent of the Sending Party.

- 11.8 To the best of US/DOE's knowledge and belief, Proprietary Information disclosed by AECL to US/DOE under SA1, being SYVAC 2.CC2 and SYVAC 3.05 Executive Routine, has been destroyed. If the US/DOE learns that such Proprietary Information has not been destroyed, US/DOE agrees to treat such Proprietary Information as if it were Proprietary Information disclosed under this Agreement.

## 12.0 INVENTIONS AND PATENTS

- 12.1 With respect to any invention or discovery made, conceived, or first actually reduced to practice in the course of or under the Project (hereinafter called "arising inventions"), such arising inventions shall be owned:
- (a) by AECL in Canada, subject to a nonexclusive, royalty-free, irrevocable license to US/DOE, its Government, and its nationals designated by it;
  - (b) by US/DOE in the United States, subject to a nonexclusive, royalty-free, irrevocable license to AECL, its Government, and its nationals designated by it; and
  - (c) in third countries by the Party making the invention, subject to a nonexclusive, royalty-free, irrevocable license to the other Party, its Government, and its nationals designated by it.
- 12.2 Arising inventions shall be identified and reported promptly by the Party making the invention to the other Party. Information regarding inventions on which patent protection is to be obtained shall not be published or publicly disclosed by the Parties until a patent application has been filed in either country of the Parties; provided, however, that this restriction on publication or disclosure shall not extend beyond six months from the date of reporting of the invention. It shall be the responsibility of the Party making the invention to appropriately mark reports which disclose inventions that have not as yet been protected by the filing of a patent application.
- 12.3 Each Party shall take all steps necessary to provide the cooperation of inventors for the purposes of carrying out the provisions of this Agreement and each Party shall be responsible for the payment of awards or other compensation due citizens of its own country with respect to such inventions under its relevant legislation.

### 13.0 TERMINATION

- 13.1 Either Party may, for any reason and at any time, terminate this Agreement as regards all or any part of the Project by giving notice to the other Party in the manner set out in clause 13.2.
- 13.2 A Party wishing to terminate this Agreement shall deliver to the other Party a written notice stating its intention to terminate and whether such termination applies to all or only specified parts of the Project. Termination shall become effective immediately upon receipt of such written notice.
- 13.3 Immediately after delivery of a notice of termination, the Project Directors shall:
- (a) Direct that all parts of the Project which are to be terminated but which have already been completed prior to the effective date of termination, be delivered to the extent required under this Agreement as if such notice of termination had not been given.
  - (b) Direct that work on all parts of the Project which are to be terminated and which have not been completed prior to the effective date of termination, cease immediately except for such work as is required to put such parts in a safe condition.
  - (c) Direct that no new work under this Project be initiated or commenced with respect to those parts of the Project which are to be terminated.
- 13.4 In case of such termination, each Party shall be responsible for all of its own termination costs including but not limited to all costs incurred in the cancellation of obligations to a third party, and no compensation of any kind shall be required to be paid by one Party to the other Party as a result thereof.

In the event of termination of this Agreement or any Task thereunder, AECL's entitlement to US/DOE's Direct Contribution shall cease as of the effective date of such termination. AECL's entitlement to US/DOE's Direct Contribution shall be calculated as described in clause 9.3 and be based on a percent of AECL's actual expenditures allowable for work under this Agreement up to and including the effective date of termination.

13.5 In the event that the Master Agreement is not extended prior to its expiration date and, therefore, this Subsidiary Agreement No. 2 terminates also, neither US/DOE nor AECL shall have any legal obligation to continue participation in the Project, including any financial or programmatic responsibility with respect to the Project, except that each Party shall be responsible for all of its own termination costs including but not limited to all costs incurred in the cancellation of obligations to a third party, and no compensation of any kind shall be required to be paid by one Party to the other Party as a result thereof.

#### 14.0 FUTURE WORK AND THIRD PARTY PARTICIPATION

14.1 It is understood and agreed that in the event either AECL or US/DOE wishes to enter into any other agreement with another party which affects the performance by either Party of its obligation under this Agreement, at least sixty (60) days prior written notice fully describing such proposed agreement should be provided. The Parties shall, if deemed necessary by either Party, negotiate an amendment to this Agreement, to accommodate or take into account the effects of such other agreement.

14.2 The Parties agree that participation in the Project may be open to other national governments upon the mutual agreement of AECL and US/DOE. Said participation shall be effective upon the execution of an Amendment to this Agreement. It shall be a condition of participation by any new party that said Party shall contribute, in accordance with a mutual decision of AECL and US/DOE, an appropriate proportion of the expenditure of the Project, including in-kind contributions, prior to the date of such participation.

#### 15.0 COPYRIGHTS

Copyrights of the Parties or of cooperating organizations and persons shall be accorded treatment consistent with internationally recognized standards of protection. As to copyrights on materials within the scope of clause 11.0 owned or controlled by a Party, that Party shall make efforts to grant to the other Party a license to reproduce copyrighted material.

#### 16.0 GENERAL PROVISIONS

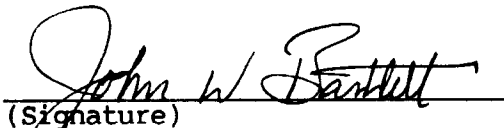
16.1 It is understood and agreed that the ability of both Parties to carry out the Project, including the ability to contribute funds, is subject to, in the case of US/DOE, the availability of funds appropriated annually by the U.S. Congress and, in the case of AECL, the availability of funds appropriated annually by the Parliament of Canada, the availability of funds appropriated annually by the Legislature of a province and the designation of such funds for AECL's use by such province or by an any agency thereof.

16.2 It is further understood and agreed that, except as otherwise expressly provided in this Agreement, the provisions of clauses 7, 8, 12, 13, 15, and 16 of the Master Agreement shall be deemed to be incorporated into and form part of this Agreement in the same way as if such clauses were fully set out herein.

16.3 The provisions of clauses 6.3(e), 6.3(f), 6.3(h), 6.5, 10.2, 10.3, 10.4, 11.0, 12.0, and 15.0 hereof shall survive expiration or early termination of this Agreement.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their duly authorized signing officers.

FOR THE DEPARTMENT OF ENERGY  
OF THE UNITED STATES OF  
AMERICA:

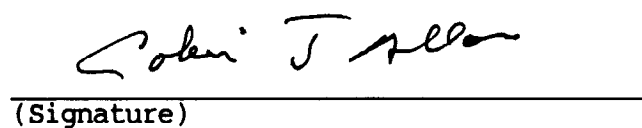
  
(Signature)

John W. Bartlett  
(Printed Name)

Director, Office of Civilian  
Radioactive Waste Management  
(Title)

30 Sept. 1991  
(Date)

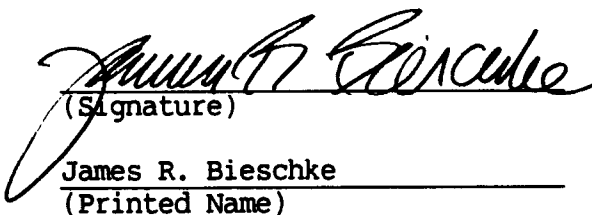
FOR THE ATOMIC ENERGY OF CANADA LIMITED/  
ENERGIE ATOMIQUE DU CANADA LIMITEE

  
(Signature)

Colin J. Allan  
(Printed Name)

Vice-President, Environmental Sciences  
and Waste Management Organization Unit  
(Title)

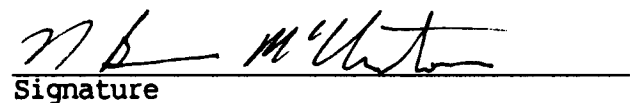
91 Sept 30  
(Date)

  
(Signature)

James R. Bieschke  
(Printed Name)

Branch Chief  
Contracting Officer  
Contracts Division,  
DOE Field Office, Chicago  
(Title)

9/30/91  
(Date)

  
Signature

N. B. McClinton  
(Printed Name)

Controller, Environmental Sciences  
and Waste Management Organization Unit  
(Title)

Sept 26, 1991  
(Date)