diligently and complete the work within the number of calendar days specified in Article I, Section 1, after such approval. The time for such delivery and completion shall be extended for the period of any reasonable delay due exclusively to causes beyond the control and without the fault of the Seller, including, but not limited to, acts of God, fires, strikes, floods, changes in the Specifications as herein provided, and acts or omissions of the Purchaser with respect to matters for which the Purchaser is solely responsible; provided, however, that no delay in such time for delivery or completion of the work or in the progress of the work shall result in any liability on the part of the Purchaser, and provided further that any claim for extension of time shall be adjusted at the time any such delay occurs or any such change is made.

Section 2. Supervision and Inspection. The Seller will give adequate supervision to the work. He will carefully study and compare all drawings, specifications, and other instructions and will at once report to the Purchaser any error, inconsistency or omission which he may discover. The Seller will keep on his work during its progress a competent superintendent and any necessary assistants, all satisfactory to the Purchaser. The Superintendent shall represent the Seller in his absence and all directions given to him shall be as binding as if given to the Seller. When requested, such directions shall be confirmed in writing.

Section 3. The Purchaser will make available during installation a competent representative to coordinate installation activities with the Seller.

Section 4. Alignment, Inspection and Tests. The Seller shall adjust and align the Equipment to perform in accordance with the Specifications and furnish in writing to the Purchaser data to show the state of adjustment of the Equipment. Immediately upon completion of the installation and alignment of the Equipment the Seller shall provide the necessary test equipment and perform the inspections and tests specified in the Specifications under the direct supervision of the Purchaser or its Engineer. A competent representative of the Purchaser or his Engineer will be available to supervise and witness these tests immediately upon completion of installation and alignment by the Seller and to determine for the purchaser that the performance of the equipment meets the Specifications. Such determination, however, shall not preclude subsequent rejection pursuant to Section 7 of this Article II. The Seller shall furnish in writing to the Purchaser the results of all tests. All Equipment furnished hereunder shall be subject to the inspection, tests, and approval of the Purchaser and the Administrator. The Purchaser and the Administrator shall have the right to inspect all records of the Seller and of any subcontractor relevant to the installation work. The Seller shall provide all reasonable facilities necessary for such inspection and tests.

Section 5. If as a result of the tests and measurements set forth in Section 4 above, the Performance Specifications of the Equipment cannot be met due to inaccuracies, or inadequacies in the system data provided in the Specifications, the Purchaser and Seller shall determine what corrective measures are necessary and whether these corrections shall be made by the Purchaser or the Seller.

If it is determined that the Seller shall make the corrections, the Purchaser will reimburse the Seller pursuant to a contract amendment, subject to the approval of the Administrator,<sup>3</sup> for such reasonable additional expenses for the corrections, realignment and retesting the Seller is required to perform pursuant to this amendment.

Where it is determined that the Purchaser will make the corrections, the Purchaser will reimburse the Seller pursuant to a contract amendment, subject to the approval of the Administrator,<sup>4</sup> for such reasonable additional expenses for realignment and retesting the Seller is required to perform pursuant to this amendment, including, if necessary, the added expense of returning to the project, where necessary, for reperforming alignment and testing.

Section 6. Employees. The Purchaser shall have the right to require the removal from the work of any employee of the Seller if in the judgment of the Purchaser such removal shall be necessary in order to protect the interest of the Purchaser.

Section 7. Defective Workmanship and Materials. Notwithstanding the acceptance of workmanship, materials or equipment or the giving of any certificate with respect to the Completion of the Work, if during performance hereunder or within one year after completion or within such longer period as the Equipment or any part thereof may be guaranteed by the Seller and Manufacturer, the workmanship, materials or equipment, except as may be otherwise provided in the Specifications, shall be found to be defective or not in conformity with the Specifications, the Seller shall remedy or replace at its expense such workmanship, materials or equipment within thirty (30) days after notice of the existence thereof shall have been given to the Seller by the Purchaser.

## Article III—Payments and Releases of Liens

Section 1. Payment to Seller.

(a) The Purchaser shall pay the Seller upon the basis of estimates by the Seller recommended by the supervising engineer, if any, and approved by the Purchaser of the work completed, the following percentages of the price of the equipment for each location set forth in Article I, Section 1, as and if revised: 45% when 50% of the equipment for each location has been delivered at the site of the Project; 90% when all the equipment for each location has been delivered at the site of the Project.

(b) Upon completion of installation of the equipment for each location, the Purchaser shall pay the Seller 90% of the Total price for such location.

(c) Upon Completion of the Installation of the Equipment, but prior to the payment to the Seller of any amount in excess of ninety percent (90%) of the Total Contract Price, the supervising engineer, if any, of the Purchaser or the Purchaser shall inspect the work performed hereunder and if the work shall be found acceptable and all provisions hereunder fully performed, the supervising engineer, if any, of the Purchaser shall certify as to that fact and as to the amount of the balance found to be due to the Seller. Upon acceptance by the Purchaser, the Purchaser shall pay to the Seller all unpaid amounts to which the Seller shall be entitled hereunder; provided, however, such final payments shall be made not later than 120 days after completion of the work, unless such acceptance by the Purchaser shall be withheld because of the fault of the Seller.

Section 2. Release of Liens. Upon the Completion of the Installation of the Equipment by the Seller, but prior to the payment to the Seller of any amount in excess of ninety percent (90%) of the Total Contract Price, the Seller will deliver to the Purchaser, in duplicate, releases of all liens and of rights to claim any lien from manufacturers, materialmen and subcontractors who have furnished materials or services for the work and a certificate by the Seller in a form approved by the Administrator, to the effect that all labor has been paid and that all such releases have been submitted to the Purchaser for approval.

In lieu of releases of liens, and if the Administrator shall so approve, the Seller may deliver to the Purchaser, in duplicate, (1) a certificate, in a form approved by the Administrator, that all manufacturers, materialmen and subcontractors who have furnished materials or services for the Project have been paid in full, and (2) an agreement to hold the Purchaser harmless against any liens arising out of the Seller's performance hereunder which may have been or may be filed against the Purchaser.

Article IV—Particular Undertakings of the Seller

Section 1. Protection to Persons and Property. At all times when Equipment is being delivered and installed the Seller will exercise reasonable precautions for the safety of employees on the work and of the public, and will comply with all applicable provisions of Federal, State and Municipal safety laws and building and construction codes. All machine and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of the Associated General Contractors of America, unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

(a) The Seller will at all times keep the premises free from accumulations of waste material or rubbish caused by his employees or work, and at the completion of the work he will remove all rubbish and all his tools, scaffolding and surplus materials and will leave his work "broom clean."

(b) The Seller will perform work in such manner as to maximize preservation of aesthetics and conservation of natural resources, and minimize marring and scarring of the landscape and silting of streams. There will be no depositing of trash in streams or waterways. Herbicides, other

<sup>&</sup>lt;sup>3</sup>See Footnote 1.

<sup>&</sup>lt;sup>4</sup>See Footnote 1.