

Date: November 2000

EXHIBIT A

**GOVERNMENT PROVISIONS
APPLICABLE TO
PRIME CONTRACT N68936-99-9-0004**

The clauses contained in the following Government regulations are incorporated by reference. Where necessary or appropriate to derive proper meaning in a subcontract situation, "Contractor" shall mean Seller. Government clauses cited elsewhere in the contract shall be those in effect September 29, 1999.

<u>FAR/DFARS Reference</u>	<u>Title</u>
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The following clauses apply if Technical Data or Computer Software will be Generated or Delivered:

252.227-7013	Rights in Technical Data--Noncommercial Items (NOV 95)
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 95)
252.227-7037	Validation of Restrictive Markings on Technical Data (SEP 99)

Special Contract Requirements:

Article 26 Copyright Statement

The Seller shall include the following statement on any mask work or work of authorship created in the performance of this Agreement:

"THE U.S. GOVERNMENT HAS A COPYRIGHT LICENSE IN THIS WORK PURSUANT TO AGREEMENT N68936-99-9-0004 BETWEEN BOEING AND THE GOVERNMENT."

Article 27 Patent Rights

As used in this provision, the following terms shall have the following meanings and are equally applicable to both singular and plural forms of the terms defined:

"Invention" means any invention or discovery which is or may be patentable under Title 35 of the United States Code.

"Made" when used in relation to any Invention, means the conception or first actual reduction to practice of such Invention.

"Patent Application" means U.S. or foreign patent application, continuation, continuation-

in-part, divisional, reissue and/or reexamination on any Subject Invention.

"Subject Invention" means any Invention Made in the performance of work under this Agreement.

Employees of Seller will report a Subject Invention to their employer within ninety (90) days. The Seller will notify Boeing of a Subject Invention within ninety (90) days of the report by its employee(s). After reporting the Invention to Boeing, the Party entitled to own the Subject Invention shall have ninety (90) days in which to decide whether to file an application for Patent, and to notify Boeing of the decision. If the entitled Party declines, or upon the expiration of ninety (90) days without notification, the other Party shall have an opportunity to file and take title to the Invention, subject to the retention of a nonexclusive, irrevocable, paid-up license to practice the Subject Invention or have the invention practiced throughout the world by or on behalf of the Party whose employee(s) Made the Subject Invention.

Each Party shall be entitled to own the Subject Inventions of its employees. Each Party hereby grants to the other Party and the Government a nonexclusive, irrevocable, paid-up license to practice a Subject Invention Made by employees of the granting Party or have that Subject Invention practiced throughout the world by or on behalf of that other Party and the Government. No nonexclusive license granted under this Agreement shall be assigned, licensed or otherwise disposed of except to the successor of that part of the Party's business to which such license pertains.

Each Party whose employee(s) contributed to the Making of a jointly Made Subject Invention shall have title, in the form of an undivided interest, in the Subject Invention. The Parties shall confer on all jointly Made Subject Inventions to determine which Party will file an application for Patent.

Seller shall have the option, to be exercised within one hundred forty-five (145) days after the filing of an Application for Patent, of acquiring an exclusive license in the Government's rights in any Subject Invention. An exclusive license will be subject to a reasonable royalty. All exclusive licenses granted in Subject Inventions are subject to the reservation of a nonexclusive, irrevocable, paid-up license to practice a Subject Invention Made by employees of the Government or have that Subject Invention practiced throughout the world by or on behalf of the Government.

In the event both Parties and the Government decline to file a Patent Application, the Government will renounce its entitlement and leave all rights to the Government inventor(s) who may retain ownership of the Invention, subject to the granting to the Government and the Parties of a nonexclusive, irrevocable, paid-up license to practice the Invention or have the Invention practiced throughout the world by or on behalf of each Party.

Each Party shall provide the other Party with copies of any Patent Applications it files on any Subject Invention along with the right to inspect and make copies of all related documents.

For each nonexclusive license granted under this purchase contract, each Party shall provide to the other Party a Confirmatory License Agreement in the following form:

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CONFIRMATORY LICENSE AGREEMENT

1. APPLICATION FOR (Title of invention)
2. INVENTOR(S) AND AFFILIATION
3. PATENT APPLICATION SERIAL NO.
4. PATENT APPLICATION FILING DATE
5. GOVERNMENT ACTIVITY (Name, address, point of contact)

Commander (Code ____)

Naval Air Warfare Center Weapons Division

Attn: _____

1 Administration Circle

China Lake, CA 93555-6100

6. NON-GOVERNMENT ACTIVITY (Name, address, point of contact)

7. AGREEMENT NUMBER: N68936-99-9-0004

8. DATE OF THIS AGREEMENT

9. The invention identified above is a "Subject Invention" under Article ____ Patent Rights included with the Agreement N68936-99-9-0004 between the Government and the Non-Government Activity identified in Item 6.

This document is confirmatory of the nonexclusive, irrevocable, paid-up license to practice the identified Subject Invention or have that Subject Invention practiced throughout the world by or on behalf of the receiving party, and of all other rights acquired by the receiving party by the referenced clause.

This license is granted to (select one)

____ the Government

____ Non-Government Activity identified in Item 6

under this Agreement in the identified invention, patent application and any resulting patent.

The licensee is hereby granted an irrevocable power to inspect and make copies of the above-identified patent application.

_____ ACTIVITY NAME OF LICENSOR

_____ SIGNATURE

_____ NAME (Typed or Printed)

_____ TITLE

_____ BUSINESS TELEPHONE

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Article 28 Foreign Access to Technology

This Article shall remain in effect during the term of the purchase contract and for five (5) years thereafter.

A. Definition.

1. "Foreign Firm or Institution" means a firm or institution organized or existing under the laws of a country other than the United States, its territories, or possessions. The term includes, for purposes of this purchase contract, any agency or instrumentality of a foreign government; and firms, institutions or business organizations which are owned or substantially controlled by foreign governments, firms, institutions, or individuals.
2. "Know-How" means all information including, but not limited to, discoveries, formulas, materials, inventions, processes, ideas, approaches, concepts, techniques, methods, software, programs, documentation, procedures, firmware, hardware, technical data, specifications, devices, apparatus and machines.
3. "Technology" means discoveries, innovations, Know-How and inventions, whether patentable or not, including computer software, recognized under U.S. law as intellectual creations to which rights of ownership accrue, including, but not limited to, patents, trade secrets, maskworks, and copyrights developed under this purchase contract.

B. General.

The Parties agree that research findings and technology arising under this purchase contract may constitute a significant enhancement to the national defense, and to the economic vitality of the United States. Accordingly, access to important technology developments under this purchase contract by foreign firms or institutions must be carefully controlled. The controls contemplated in this Article are in addition to, and are not intended to change or supersede, the provisions of:

1. the International Traffic in Arms Regulation (22 CFR pt. 120 et seq.)
2. the DOD Industrial Security Regulation (DOD 5220.22-R)
3. the Department of Commerce Export Regulation (15 CFR pt. 770 et seq.).

C. Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions.

1. In order to promote the national security interests of the United States and to effectuate the policies that underlie the regulations cited above, the procedures stated in subparagraphs C.2, C.3, and C.4 below shall apply to any transfer of technology. For purposes of this paragraph, a transfer includes a sale of the company, and sales of licensing of technology. Transfers do not include:

- a. sales of products or components, or
- b. licenses of software or documentation related to sales of products or components, or
- c. transfer to foreign subsidiaries of the Seller for purposes related to this purchase contract, or
- d. transfer which provides access to technology to a foreign firm or institution which is an approved source of supply or source for the conduct of research under this purchase contract provided that such transfer shall be limited to that necessary to allow the firm or institution to perform its approved role under this purchase contract.

2. The Seller shall provide timely notice to the Government of any proposed transfers from the Seller to foreign firms or institutions of any technology developed under this purchase contract. If the Government determines that the transfer may have adverse consequences to the national security interests of the United States, the Seller, its

vendors, and the Government shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer.

3. In any event, the Seller shall provide written notice to the Government program manager of any proposed transfer to a foreign firm or institution at least sixty (60) calendar days prior to the proposed date of transfer. Such notice shall cite this article and shall state specifically what is to be transferred and the general terms of the transfer. Within thirty (30) calendar days of receipt of the Seller's written notification, the Government program manager shall advise the Seller whether the Government consents to the proposed transfer. In cases where the Government does not concur or sixty (60) calendar days after receipt and the Government provides no decision, the Seller may utilize the procedures under the article entitled "*Disputes*". No transfer shall take place until a decision is rendered.

4. In the event a transfer of technology to foreign firms or institutions which is not approved by the Government takes place, the Seller shall (a) refund to the Government funds paid to Seller under this purchase contract for the development of the technology and (b) the Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced on behalf of the United States, the technology throughout the world for Government and any and all other purposes, particularly to effectuate the intent of this purchase contract. Upon request of the Government, Seller shall provide written confirmation of such licenses.

D. Lower Tier Agreements

The Seller shall include this article, suitable modified, to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

A = ADDED

D = DELETED

R = REVISED