AWARD / CONTRACT

1. THIS CONTRACT IS A RATED CONTRACT ORDER UNDER DPAS (15 CFR 350) ▶ RATING

2. CONTRACT (Proc. Inst. Ident) NO. N66001-01-C-0017

3. EFFECTIVE DATE SEE BLOCK 20C

4. REQUISITION / PURCHASE REQUEST / PROJECT NO. N66001-1057-8707 / Requisition Tracking No. 1061-0081

5. ISSUED BY CODE N66001
CONTRACTING OFFICER
SPAWAR SYSTEMS CENTER SAN DIEGO
53560 HULL STREET
SAN DIEGO, CA 92152

6. ADMINISTERED BY (If other than Item 5) CODE N66001

7. NAME AND ADDRESS OF CONTRACTOR (No., street, country, state and ZIP + 4 Code)
GENERAL DYNAMICS - COMMUNICATIONS SYSTEMS
77 A STREET
NEEDHAM, MA 02494-2800

8. DELIVERY [ ] FOB ORIGIN [X] OTHER (See below)

9. DISCOUNT FOR PROMPT PAYMENT N/A

10. SUBMIT INVOICES (4 Copies unless otherwise specified) TO THE ADDRESS SHOWN IN ▶ ITEM See Section G of contract.

CAGE CODE 04655 CEC CODE 011354531

11. SHIP TO / MARK FOR CODE N66001
RECEIVING OFFICER
SPAWAR SYSTEMS CENTER, CODE 2242
53560 HULL STREET
SAN DIEGO, CA 92152-5410

12. PAYMENT WILL BE MADE BY CODE N68688
DFAS - CL SAN DIEGO
PO BOX 429005
SAN DIEGO, CA 92142-9005

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: 10 U.S.C. 2304(C)(1)

14. ACCOUNTING AND APPROPRIATION DATA: SEE SECTION B HEREIN

15A. ITEM NO	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. UNIT PRICE AMOUNT
	SEE SECTION B HEREIN				

15G. TOTAL AMOUNT OF CONTRACT ▶ $ 147,500.00

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. [X] CONTRACTOR'S NEGOTIATED AGREEMENT *(Contractor is required to sign this document and return 2 copies to issuing office).* Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein).

18. [ ] AWARD *(Contractor is not required to sign this document).* Your offer on solicitation Number _____, including the additions or changes made by you which additions or changes set forth in full above, is hereby accepted as to items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

19A. NAME AND TITLE OF SIGNER *(Type or print)*
Robert Bergson, Contracts Manager

20A. NAME OF CONTRACTING OFFICER
LINDA MULLIGAN

19B. NAME OF CONTRACTOR
BY Robert Bergson
(Signature of person authorized to sign)

19C. Date Signed 9/6/01

20B. UNITED STATES OF AMERICA
BY Linda Mulligan
(Signature of Contracting Officer)

20C. Date Signed 9/6/2001

SECTION B

B-2 CONTRACT LINE ITEMS

Offerors shall insert in this Section B, a unit price for CLINS 0001 and 0002 for the listed quantities:

ITEM NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
0001	General Dynamics Communication Systems KG-175 E100 TACLANE Release 1.0 Unit with AC power (Part No. ET-59000-1)	8	EA	$15,950	$127,600
0002	General Dynamics Communication Systems KG-175 TACLANE to KG-175 E100 TACLANE Release 1.0 Upgrade Kit (Part No. ET-59101-1)	2	EA	$9,950	$19,900

SF 26, Block 14, Accounting and Appropriation Data:

AA 97X4930 NH3P 000 77777 0 066001 2F 000000 1000000212AAN $147,500.00

Purchase Requisition Tracking No.: 1000000212AA
Requirement Tracking Number: 10610081

SECTION C

C-304 COMPLIANCE WITH SPECIFICATIONS

If part or model numbers are used to describe the Items being offered, it is understood and agreed such items are in complete compliance with the specifications and such items are not offered as alternates or deviations.

C-701 YEAR 2000 COMPLIANCE REQUIREMENT--INFORMATION TECHNOLOGY

(a) All information technology (IT), whether commercial or noncommercial, delivered under this contract that will be required to perform date/time processing involving dates subsequent to December 31, 1999, shall be Year 2000 compliant when properly installed, operated, and maintained in accordance with the contract specifications and applicable documentation. If the contract requires that specific deliverables operate together as a system, this requirement shall apply to those deliverables as a system.

(b) *Definitions*

"Commercial items" is defined at the FAR 52.202-1 "Definitions" clause of this contract.

"Information technology" or "IT" as used in this requirement, means any equipment, or interconnected system(s) or subsystem(s) of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency.

(1) For purposes of this definition, equipment is used by an agency if the equipment is used by the agency directly or is used by a contractor under a contract with the agency which--

(i) Requires the use of such equipment; or

(ii) Requires the use, to a significant extent, of such equipment in the performance of a service or the furnishing of a product.

(2) The term "information technology" includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

(3) The term "information technology" further includes for this contract--

(i) Any equipment that is acquired by a contractor incidental to a contract; or

(ii) Any IT (regardless of the source) used by the contractor in the performance of this contract to develop or modify IT under the requirements of this contract, or

(iii) Any equipment that contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are information technology.

"Year 2000 compliant" means that the IT accurately processes date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to *the extent* that other IT, used in combination with the IT being delivered, properly exchanges date/time data with it. The "*proper exchange*" of date/time data shall be in accordance with the interface requirements specification(s) of the contract.

(c) For line item deliverables which are commercial items, and which include commercial IT, the terms and conditions of the standard commercial warranty covering such commercial IT shall apply in addition to, and to the extent such terms and conditions are consistent with, this requirement. Any applicable commercial warranty shall be incorporated into this contract by attachment.

(d) Notwithstanding any provision to the contrary in any warranty of this contract, or in the absence of any such warranty or warranties, the remedies available to the Government under this requirement shall include those provided in the inspection clause(s) of this contract. Nothing in this requirement shall be construed to limit any rights or remedies the Government may otherwise have under this contract.

(e) Unless specified elsewhere in the contract, the Contractor will also deliver to the Government a report summarizing any Year 2000 compliance testing that was performed and the results thereof.

(f) The remedies available to the Government for noncompliance with this requirement shall remain available *until 31 January 2001 or one hundred eighty (180) days* after acceptance of the last deliverable IT, item under this contract (including any option exercised hereunder), *whichever is later.* The remedies of this specification are in addition to all otherwise existing remedies, including, but not limited to, latent defect remedies.

252.239-7000 PROTECTION AGAINST COMPROMISING EMANATIONS (DEC 1991)

(a) The Contractor shall provide or use only computer equipment, as specified by the Government, that has been accredited to meet the appropriate security requirements of--

(1) The National Security Agency National TEMPEST Standards (NACSEM No. 5100 or NACSEM No. 5100A, Compromising Emanations Laboratory Test Standard, Electromagnetics (U)); or

(2) Other standard specified by this contract.

(b) Upon request of the Contracting Officer, the Contractor shall provide documentation supporting the accreditation.

(c) The Government may, as part of its inspection and acceptance, conduct additional tests to ensure that equipment or systems delivered under this contract satisfy the security standards specified. The Government may conduct additional tests-

(1) At the installation site or contractor's facility.

(2) Notwithstanding the existence of valid accreditations of equipment prior to the award of this contract.

(d) Unless otherwise provided in this contract under the Warranty of Supplies or Warranty of Systems and Equipment clauses, the Contractor shall correct or replace accepted equipment or systems found to be deficient within one year after proper installations.

(1) The correction or replacement shall be at no cost to the Government.

(2) Should a modification to the delivered equipment be made by the Contractor, the one year period applies to the modification upon its proper installation.

(3) This paragraph (d) applies regardless of f.o.b. point or the point of acceptance of the deficient equipment/systems.

SECTION D

D-305 PREPARATION FOR DELIVERY

(a) Supplies shall be prepared for delivery in accorance with ASTM-D-3951, "Standard Practice for Commercial Packaging", dated 1 September 1995.

(b) The contractor shall mark all shipments under this contract in accordance with MI-STD-129, "Military Standard Marking for Shipment and Storage".

D-307 PROHIBITED PACKING MATERIALS

The use of asbestos, excelsior, newspaper or shredded paper (all types including waxed paper, computer paper and similar hydroscopic or non-neutral material) is prohibited. In addition, loose fill polystyrene and plastic as packing materials are prohibited for items destined for afloat units.

D-308 MARKING OF SHIPMENT

Each shipment of CLIN 0001 shall be clearly marked to show the following information:

SHIP TO:
RECEIVING OFFICER
SPAWARSYSCEN D242
53560 Hull Street
San Diego, CA 92152-5001

MARK FOR:
Contract #: N66001-01-C-0017
Item # _____
Code: D872, ATTN: Carl Dugan

The receiving office is located at SPAWARSYSCEN San Diego_and is open for deliveries_Monday through Thursday from 7:30 a.m. to 4:30 p.m.

Each shipment of CLIN 0002 shall be clearly marked to show the following information:

SHIP TO:
RECEIVING OFFICER
Communications and Security Material Issuing Office
8876 Second Street
Norfolk, VA 23511-3797
Attn: Mr. Blackwood (757/444-7051 x115)

MARK FOR:
Contract #: N66001-01-C-0017
Item # _____
Mark For: Mr. Blackwood (757/444-7051 x115)
(POC in San Diego: Mr. Carl Dugan, 619/553-9430)

D-310 MARKING OF WARRANTED ITEMS

(a) Each item covered by a warranty shall be stamped or marked in accordance with MIL-STD 129 "Marking for Shipment and Storage." Where this is impracticable, written notice shall be attached to or furnished with the warranted item.

(b) Warranted items shall be marked with the following information:
(1) National stock number or manufacturer's part number
(2) Serial number or other item identifier (if the warranty applies to uniquely identified items
(3) Contract number
(4) Indication that a warranty applies
(5) Manufacturer or entity (if other than the contractor) providing the warranty
(6) Date or time when the warranty expires
(7) Indication of whether or not attempted on-site repair by Government personnel will void the warranty.

SECTION E

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

http://farsite.hill.af.mil/
http://www.arnet.gov/far/

FIXED PRICE SUPPLY

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

REFERENCE	TITLE	DATE
52.246-2	Inspection of Supplies--Fixed-Price	AUG 1996
52.246-16	Responsibility for Supplies	APR 1984

DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (48 CFR CHAPTER 2) CLAUSES

252.246-7000	Material Inspection and Receiving Report	DEC 1991

E-303 INSPECTION AND ACCEPTANCE--DESTINATION

Inspection and acceptance of the supplies/services to be furnished hereunder shall be made at destination by the technical representative or his duly authorized representative within 14 working days after receipt of supplies/services, or completion of services at destination.

FAR Clause 52.232-25, entitled Prompt Payment, is incorporated by reference in Section I of this contract. As authorized by FAR 32.905(a)(1)(ii) and DFARS 232.905(1), paragraph (a)(5)(i) of FAR clause 52.232-25 is modified to read 14 working days in lieu of seven calendar days.

SECTION F

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

http://farsite.hill.af.mil/
http://www.arnet.gov/far/

FIXED PRICE SUPPLY

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

REFERENCE	TITLE	DATE
52.211-17	Delivery of Excess Quantities	SEP 1989
52.242-15	Stop-Work Order	AUG 1989
52.242-17	Government Delay of Work	APR 1984
52.247-34	F.O.B. Destination	NOV 1991

F-52.211-8 TIME OF DELIVERY (JUL 1995) (ALTERNATE I) (APR 1984)

(a) The Government requires delivery to be made according to the following schedule:

REQUIRED DELIVERY DATE		
ITEM NO.	QUANTITY	ON OR BEFORE
All Clins	Quantity Ordered	See Delivery Schedule listed in F-302

The Government will evaluate equally, as regards time of delivery, offers that propose delivery of each quantity within the applicable delivery period specified above. Offers that propose delivery that will not clearly fall within the applicable required delivery period specified above, will be considered nonresponsive and rejected. The Government reserves the right to award under either the required delivery schedule or the proposed delivery schedule, when an offeror offers an earlier delivery schedule than required above. If the offeror proposes no other delivery schedule, the required delivery schedule above will apply.

OFFEROR'S PROPOSED DELIVERY SCHEDULE		
ITEM NO.	QUANTITY	ON OR BEFORE
N/A	N/A	N/A

(b) The delivery dates or specific periods above are based on the assumption that the Government will make award by N/A. Each delivery date in the delivery schedule above will be extended by the number of calendar days after the above date that the contract is in fact awarded. Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed or otherwise furnished to the successful offeror results in a binding contract. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails.

F-302 TIME AND PLACE OF DELIVERY--F.O.B. DESTINATION

Destination and delivery schedule are set forth below:

ITEM	DESTINATION	QUANTITY	DELIVERY SCHEDULE
0001	53560 Hull Street San Diego, CA 92152 (See Clause D-308)	8	4 months after effective date of contract award
0002	8876 Second Street Norfolk, VA 23511-3797 (See Clause D-308)	3	4 months after effective date of contract award

SECTION G

5252.232-9000 SUBMISSION OF INVOICES (FIXED PRICE) (JUL 1992)

(a) "Invoice" as used in this clause does not include contractor's requests for progress payments.

(b) The contractor shall submit original invoices with two copies to the address identified in the solicitation/contract award form (SF 26-Block 10; SF 33-Block 23; SF 1447-Block 14, SF1449-Block 18a), unless delivery orders are applicable, in which case invoices will be segregated by individual order and submitted to the address specified in the order (DD 1155-Block 13 or SF 26-Block 10).

(c) The use of copies of the Material Inspection and Receiving Report (MIRR), DD Form 250, as an invoice is encouraged. DFARS Appendix F-306 provides instructions for such use. Copies of the MIRR used as an invoice are in addition to the standard distribution stated in DFARS F-401.

(d) In addition to the requirements of the Prompt Payment clause of this contract, the contractor shall cite on each invoice the contract line item number (CLIN); the contract subline item number (SLIN), if applicable; the accounting classification reference number (ACRN) as identified on the financial accounting data sheets, and the payment terms.

(e) The contractor shall prepare:
_ a separate invoice for each activity designated to receive the supplies or services.
_ a consolidated invoice covering all shipments delivered under an individual order.
X either of the above.

(f) If acceptance is at origin, the contractor shall submit the MIRR or other acceptance verification directly to the designated payment office. If acceptance is at destination, the consignee will forward acceptance verification to the designated payment office.

G-13 INSTRUCTIONS TO DFAS PAYING OFFICE

The Defense Finance and Accounting Service (DFAS) is hereby requested to place this contract on the "manual" payment cycle. Specific Paying instructions are:

___ Contained on the attached Financial Accounting Data Sheet;
X Included in Section B; or
___ Provided as follows:

CLIN(S) _____:
ACR: AA _____ $_____
CLIN(S) _____:
ACR: AA _____ $_____

G-314 TYPE OF CONTRACT

This is a firm fixed price completion contract.

SECTION H

H-5000 NONSTANDARD TERMS AND CONDITIONS (JUL 2001)

General Dynamics Standard Terms and Conditions of Sale are incorporated; however, in the event of a conflict between the General Dynamics Standard Terms and Conditions of Sale and the FAR clauses referenced in the order, the FAR clauses shall prevail. Also, to the extent any terms or conditions conflict with Federal law, they will be invalid.

H-320 ALTERNATIVES AND UPDATES TO SPECIFICATIONS AND STANDARDS

(a) The Department of Defense is --

(1) committed to minimizing the use of military and federal specifications and standards; and

(2) seeking to use non-government specifications and standards to the maximum extent practicable to satisfy its requirements.

(b) The Contractor --

(1) is encouraged to identify and propose alternatives to specifications and standards cited in this contract;

(2) may submit to the Contracting Officer a proposal addressing alternatives to contractually mandated military, federal, or commercial specifications and standards, consisting of the following:

(i) a copy of the proposed alternatives;

(ii) a comparison of the proposed alternatives to the specifications or standards cited in the contract; and

(iii) an analysis supporting the feasibility and cost-effectiveness of the proposed alternatives.

(c) If the Contractor has a contract, or multiple DOD contracts, that incorporate outdated or different versions of military, federal, or commercial specifications or standards, the Contractor may request that all of its contracts be updated to the latest version of the applicable specifications or standards. Updating must not affect the form, fit, or function of any deliverable item, and must demonstrate a benefit to the government. The Contractor may submit updating requests to the Contracting Officer through the cognizant contract administration office. The government will, to the extent practicable, evaluate the acceptability of any proposed alternative. If a proposed alternative is not considered for the instant procurement, it will be considered for future procurement. If the Contracting Officer does not accept the proposed alternative, the Contractor agrees to perform the contract in accordance with the specifications and standards cited in the contract.

5252.215-9210 INCORPORATION OF REPRESENTATIONS AND CERTIFICATIONS BY REFERENCE (NOV 1991)

All representations and certifications and other written statements made by the contractor in response to Section K of the solicitation or at the request of the contracting officer which are incident to the award of the contract or modification of this contract, are hereby incorporated by reference with the same force and effect as if they were given in full text.

5252.243-9400 AUTHORIZED CHANGES ONLY BY THE CONTRACTING OFFICER (JAN 1992)

(a) Except as specified in paragraph (b) below, no order, statement, or conduct of Government personnel who visit the Contractor's facilities or in any other manner communicates with Contractor personnel during the performance of this contract shall constitute a change under the Changes clause of this contract.

(b) The Contractor shall not comply with any order, direction or request of Government personnel unless it is issued in writing and signed by the Contracting Officer, or is pursuant to specific authority otherwise included as a part of this contract.

(c) The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract and notwithstanding provisions contained elsewhere in this contract, the said authority remains solely the Contracting Officer's. In the event the contractor effects any change at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in charges incurred as a result thereof. The address and telephone number of the Contracting Officer is:

NAME: Linda Mulligan
ADDRESS: SPAWAR Systems Center San Diego
53560 Hull Street, Bldg. A33, Rm. 1602W
San Diego, CA 92152
TELEPHONE: (619) 553-4538

SECTION I

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

http://farsite.hill.af.mil/
http://www.arnet.gov/far/

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

REFERENCE	TITLE	DATE
52.202-1	Definitions	MAR 2001
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	APR 1984
52.203-6	Restrictions on Subcontractor Sales to the Government	JUL 1995
52.203-7	Anti-Kickback Procedures	JUL 1995
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	JAN 1997
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	JAN 1997
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	JUN 1997
52.204-4	Printing/Copying Double-Sided on Recycled Paper	AUG 2000
52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	JUL 1995
52.211-5	Material Requirements	AUG 2000
52.215-2	Audit and Records—Negotiations	JUN 1999
52.215-8	Order of Precedence—Uniform Contract Format	OCT 1997
52.215-14	Integrity of Unit Prices – Alternate I	OCT 1997
52.219-8	Utilization of Small Business Concerns	OCT 2000
52.222-3	Convict Labor	AUG 1996
52.222-19	Child Labor--Cooperation with Authorities and Remedies	FEB 2001
52.222-20	Walsh-Healey Public Contracts Act	DEC 1996
52.222-21	Prohibition of Segregated Facilities	FEB1999
52.222-26	Equal Opportunity	FEB 1999
52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era	APR 1998
52.222-36	Affirmative Action for Workers with Disabilities	JUN 1998
52.222-37	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era	JAN 1999
52.223-6	Drug-Free Workplace	JAN 1997
52.225-13	Restrictions on Certain Foreign Purchases	JUL 2000
52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises	JUN 2000
52.227-1	Authorization and Consent	JUL 1995
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement	AUG 1996
52.229-4	Federal, State, and Local Taxes (Noncompetitive Contract)	JAN 1991
52.229-5	Taxes--Contracts Performed in U.S. Possessions or Puerto Rico	APR 1984
52.232-1	Payments	APR 1984
52.232-8	Discounts for Prompt Payment	MAY 1997
52.232-11	Extras	APR 1984
52.232-17	Interest	JUN 1996

52.232-25	Prompt Payment	MAR 2001
52.232-33	Payment by Electronic Funds Transfer--Central Contractor Registration	MAY 1999
52.233-1	Disputes	DEC 1998
52.233-3	Protest after Award	AUG 1996
52.242-13	Bankruptcy	JUL 1995
52.243-1	Changes--Fixed-Price	AUG 1987
52.244-6	Subcontracts for Commercial Items and Commercial Components	OCT 1998
52.249-2	Termination for Convenience of the Government (Fixed-Price)	SEP 1996
52.249-8	Default (Fixed-Price Supply and Service)	APR 1984
52.253-1	Computer Generated Forms	JAN 1991

DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (48 CFR CHAPTER 2) CLAUSES

REFERENCE	TITLE	DATE
252.201-7000	Contracting Officer's representative	DEC 1991
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies	MAR 1999
252.204-7000	Disclosure of Information	DEC 1991
252.204-7003	Control of Government Personnel Work Product	APR 1992
252.204-7004	Required Central Contractor Registration	MAR 2000
252.209-7000	Acquisition from Subcontractors Subject to On-Site Inspection under the Intermediate-Range Nuclear Forces (INF) Treaty	NOV 1995
252.223-7004	Drug-Free work force	SEP 1988
252.225-7001	Buy American Act and Balance of Payments Program	MAR 1998
252.225-7002	Qualifying country sources as subcontractors	DEC 1991
252.225-7005	Identification of expenditures in the United States	DEC 1991
252.225-7009	Duty-Free Entry--Qualifying Country Supplies (End Products and Components)	AUG 2000
252.225-7012	Preference for Certain Domestic Commodities	AUG 2000
252.225-7031	Secondary Arab Boycott of Israel	JUN 1992
252.225-7036	Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program	MAR 1998
252.225-7037	Duty-Free Entry--Eligible End Products	AUG 2000
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	JUN 1995
252.227-7016	Rights in Bid or Proposal Information	JUN 1995
252.227-7019	Validation of Asserted Restrictions--Computer Software	JUN 1995
252.227-7037	Validation of Restrictive Markings on Technical Data	SEP 1999
252.242-7000	Postaward Conference	DEC 1991
252.243-7002	Requests for equitable adjustment	MAR 1998

52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA—MODIFICATIONS – ALTERNATE IV (OCT 1997)

(a) Submission of cost or pricing data is not required.

(b) Provide information described below: Vendor quotes and/or catalog price lists

52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any **Defense Federal Acquisition Regulation Supplement (48 CFR Chapter 2)** clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

SECTION J

J-1 LIST OF ATTTACHMENTS

ATTACH NO.:	TITLE:
1	"General Dynamics Government Systems Corporation Standard Terms and Conditions of Sale"

ATTACHMENT 1

"GENERAL DYNAMICS GOVERNMENT SYSTEMS CORPORATION STANDARD TERMS AND CONDITIONS OF SALE"

General Dynamics Standard Terms and Conditions of Sale are incorporated; however, in the event of a conflict between the General Dynamics Standard Terms and Conditions of Sale and the FAR clauses referenced in the order, the FAR clauses shall prevail. Also, to the extent any terms or conditions conflict with Federal law, they will be invalid.

GENERAL DYNAMICS GOVERNMENT SYSTEMS CORPORATION
STANDARD TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE OF ORDER(S). Seller's acceptance of any order issued by Buyer shall be expressly limited to the terms and conditions set forth herein. Unless expressly accepted by Seller in writing, Seller shall not be bound by, and specifically objects to, any additional or different terms set forth or referenced in Buyer's purchase order. Buyer's purchase order shall be deemed accepted only after (i) Seller's terms and conditions and the product scheduled ship date have been incorporated in any resulting order and (ii) such order has been accepted in writing by an authorized representative of Seller.
2. LICENSE TO USE. The product ordered contains computer programs in firmware form which are owned by Seller and/or Seller's third party licensors. Seller grants Buyer a personal, non-transferable, and non-exclusive right to use the firmware but only as contained in the product. Buyer agrees (i) not to copy or remove the firmware from the product and (ii) to take reasonable precautions to maintain the confidentiality of the firmware. Buyer shall not reverse compile, disassemble, modify, or otherwise attempt to derive the firmware or any source code or reverse engineer the product, or allow any third party to do any of the foregoing. If Buyer transfers or sells the product, Buyer may assign Buyer's rights to a third party who agrees to be bound by this provision. Except as set forth herein, Buyer may not assign Buyer's rights. In no event shall Buyer be entitled to source code.
3. PAYMENT. Buyer shall pay for all products within thirty (30) days from date of the invoice.
4. PACKING AND SHIPPING. All products shall be packed and shipped in accordance with good commercial practices.
5. TITLE. Title to all copyrighted materials, including computer programs in firmware or any other form and to documentation shall at all times remain in Seller and, to the extent applicable, to its third party licensors. Title to the hardware product (excluding any firmware content) shall pass to Buyer upon delivery, subject to the security interest which Seller retains, and which Buyer hereby grants to Seller, regarding the product purchased until the required and applicable purchase price has been paid in full by Seller.
6. DELIVERY. Unless otherwise agreed to by Seller in writing, all shipments shall be F.O.B. Destination (CONUS shipments only). Freight charges shall be for the account of the Seller.
7. INSPECTION AND ACCEPTANCE. Final inspection and acceptance shall be at Seller's facility and shall be based upon Seller's standard acceptance test procedures in effect at the time of delivery. If Buyer does not witness the acceptance testing at Seller's facility, the product shall be deemed accepted upon satisfactory completion of the acceptance test procedures and issuance of a Certificate of Completion. Buyer agrees that while witnessing any inspection or test on the premises of Seller, Buyer shall not delay or disrupt Seller's performance. Buyer further agrees that it shall comply with Seller's security and safety policies during any inspection or test on the premises of Seller. Final inspection and acceptance by Buyer shall be conclusive. Failure of Buyer to accept or provide written notice to Seller of rejection of the product within ten (10) days after delivery shall be deemed to constitute final acceptance by Buyer of the product.
8. LIMITED WARRANTY. (a) For purposes of this Limited Warranty clause, "Product" shall mean the Encryptor system only and shall exclude any sub-assemblies, parts, or components of the Product which are sold separately hereunder, e.g. Interface Card Kits, spare parts, etc.
(b) Product Hardware. Seller warrants that for a period of one (1) year from date of shipment that the Product which is sold/licensed hereunder will be free from defects in material or workmanship and will substantially conform to Seller's applicable published specifications under normal use or service. Seller's obligation hereunder shall be limited to, at Seller's sole election, the repair or replacement of the Product, at no charge to Buyer, provided that written notice of any nonconformance hereunder is received by the authorized representative of Seller prior to the expiration date of the warranty and that the Product, with Seller's authorization, is returned to Seller's facilities within 30 days of Buyer receiving such written authorization. Replacement hardware Product or part(s) thereof will be furnished on an exchange basis and will be new or of a comparable quality, at Seller's election. Such remedies are Buyer's exclusive remedies. Any repair or replacement provided by Seller pursuant to this warranty will be warranted for the remaining portion of the warranty set forth above. Buyer shall be liable for and bear the cost of transportation to and from Seller's facilities and shall bear the risk of loss during the return and delivery of the Product. Seller will arrange for shipment of the repaired or replaced Product to a location within the continental United States designated by Buyer.
(c) Product Software. Seller warrants that for a period of one (1) year from date of shipment that the Product software only which is sold/licensed hereunder will substantially conform to Seller's applicable published specifications under normal use or service. Seller's sole obligation and Buyer's sole remedy shall be for Seller to exert reasonable commercial efforts to remedy any software error to substantially conform to the applicable Product specification within a reasonable period of time after Buyer notifies Seller in writing during the warranty period of such error. (d) Charges. If Seller determines that the Product either performs in accordance with applicable published specifications or failed as a result of abuse or misuse, Seller may, at its election, charge Buyer for any labor provided and expenses incurred by Seller in connection with such determination, at Seller's then current rates. (e) Product Disclaimers/ Exclusions. SELLER HEREBY DISCLAIMS AND SHALL NOT BE LIABLE FOR ANY NONCONFORMANCE CAUSED BY OR ATTRIBUTABLE TO (i) ANY ASSOCIATED OR COMPLEMENTARY HARDWARE, SOFTWARE OR FIRMWARE NOT FURNISHED BY SELLER; (ii) EXPOSURE OF THE PRODUCT TO CONDITIONS BEYOND THE OPERATING AND/OR ENVIRONMENTAL CONSTRAINTS IN SELLER'S APPLICABLE PUBLISHED SPECIFICATIONS OR OPERATING INSTRUCTIONS, (iii) MISUSE, NEGLECT, ACCIDENT, IMPROPER INSTALLATION, REPAIR, ALTERATION OR DAMAGE BY BUYER OR ANY THIRD PARTY OR ACTS OF GOD; (iv) LOSS, DAMAGE, OR INJURY TO THIRD PARTIES; OR (v) INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES REGARDLESS OF WHETHER SELLER HAS BEEN ADVISED OF SUCH NONCONFORMANCE OR DAMAGES AND NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SELLER DOES NOT WARRANT OR REPRESENT THAT THE PRODUCT WILL MEET BUYER'S SPECIFIC REQUIREMENTS, THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE ERRORS IN THE SOFTWARE CAN OR WILL BE CORRECTED. ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED AND EXCLUDED. SELLER DOES NOT MAKE OR PASS ON TO BUYER OR ANY THIRD PARTY ANY WARRANTY OR REPRESENTATION ON BEHALF OF SELLER'S THIRD PARTY LICENSORS OR SUPPLIERS. SELLER DOES NOT WARRANT THAT (1) THE PRODUCT WILL OPERATE IN THE SPECIFIC COMBINATION(S) WHICH

MAY BE SELECTED FOR USE BY BUYER, (2) THAT USE OF THE PRODUCT WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE, OR (3) THAT ALL ERRORS WILL BE CORRECTED. SELLER FURTHER DOES NOT WARRANT THAT THE INFORMATION STORED OR TRANSMITTED BY THE PRODUCT WILL BE FREE FROM UNAUTHORIZED ACCESS OR MODIFICATION.

(f) Product Sub-assemblies, Parts or Components Disclaimers/ Exclusions. SELLER PROVIDES PRODUCT SUB-ASSEMBLIES, PARTS OR COMPONENTS "AS-IS" AND DISCLAIMS ANY AND ALL WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE (INCLUDING THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE), RELATING TO THE PRODUCT SUB-ASSEMBLIES, PARTS OR COMPONENTS, DOCUMENTATION, PRODUCT SPECIFICATION, THIRD PARTY SOFTWARE OR HARDWARE SYSTEMS INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTIBILITY, MERCHANTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE, INTEROPERABILITY OR WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY.

9. LIMITATION OF LIABILITY. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER, ITS CUSTOMERS OR ANY OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS ORDER OR THE USE OF OR INABILITY TO USE THE PRODUCT EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER SHALL NOT BE LIABLE FOR ANY CLAIM AGAINST BUYER OR ITS CUSTOMERS BY ANY THIRD PARTY AND SHALL HAVE NO LIABILITY TO BUYER OR ITS CUSTOMERS FOR ANY CLAIM THAT THE PRODUCT OR USE THEREOF, INFRINGES ANY COPYRIGHT OR TRADE SECRET OF BUYER OR ANY THIRD PARTY.

   SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATED TO A COMPUTATIONAL ATTACK (i.e. FACTORING OF ANY PUBLIC OR PRIVATE KEY GENERATED BY THE PRODUCT BY BRUTE FORCE ATTACK OR OTHERWISE AND/OR ANY SOLUTION OF THE CRYPTOGRAPHIC ALGORITHMS UTILIZED BY THE PRODUCT) BY BUYER OR ITS CUSTOMERS.

   SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RESULTING FROM THE LOSS OR RELEASE OF BUYER OR ITS CUSTOMERS DATA DURING USE, MAINTENANCE OR REPAIR OF THE PRODUCT.

   THE ABOVE LIMITATIONS OF LIABILITY APPLY WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

   THE AGGREGATE LIABILITY OF SELLER, IF ANY, SHALL NOT EXCEED THE TOTAL AMOUNT OF THE ORDER PAID BY BUYER FOR PRODUCT.

10. FORCE MAJEURE. NO PENALTY CLAUSE OF ANY KIND, IN ANY SPECIFICATION OR ORDER, WILL BE EFFECTIVE AGAINST SELLER. Seller shall not be liable for any damages caused by delays beyond reasonable control of Seller, including, without limitation, fire, strike, acts of Buyer, restrictions by civil or military authority, acts of God or the public enemy, transportation failures, or inability to obtain labor, materials, components or manufacturing facilities. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay.
11. TAXES. Prices quoted do not include any taxes, duties or imposts of any nature whatsoever. In the event Seller is required to pay any such tax, charge, or duty, Buyer shall promptly reimburse Seller therefore, or in lieu of such payment, shall provide Seller, at the time the order is submitted, with exemption certificates or other documents acceptable to the taxing authorities.
12. CHANGES. Unless agreed to by both parties as evidenced by a written amendment to the order signed by duly authorized representatives of Buyer and Seller, no changes, extras or other work shall be authorized.
13. CANCELLATION. Orders accepted by Seller are subject to cancellation by Buyer only with the written consent of Seller and upon payment of a reasonable cancellation charge. Seller shall have the right to cancel any order placed, or to refuse, or to delay, the shipment thereof for failure of the Government to approve the sale of the product to Buyer, failure of Buyer to promptly meet payments due to Seller, or for any acts or omissions of Buyer that delay Seller's performance.
14. AUDIT. Not withstanding any language or provision to the contrary, Buyer shall not be allowed the right to audit or examine Seller's books and records.
15. PROPRIETARY INFORMATION. All information disclosed in written, graphic, model, or oral form, including, but not limited, drawings, prints, publications, specifications, processes, manufacturing techniques, oral explanations, schedules and financial reports, obtained by Buyer from Seller prior to and during the performance of this order which is identified as proprietary by Seller shall be kept confidential by Buyer and shall remain the property of Seller, and all tangible items and copies thereof shall be returned at Seller's request. Such information shall be used in performance of this order and shall not be used for other purposes unless agreed to in writing by Seller. Such information shall not be reproduced, published, disseminated or disclosed to any third party, including the U.S. Government, by Buyer without the prior written consent of Seller. Nothing contained herein shall be construed as granting an implied license or a license by estoppel or otherwise of proprietary information under any intellectual property rights of the Seller.
16. PATENT INDEMNITY. Buyer agrees that Seller has the right to defend, or at its option to settle, and Seller agrees, at its own expense, to defend or at its option to settle, any claim, suit, or proceeding brought against Buyer on the issue of infringement of any United States patent by the Product or any part thereof, supplied by Seller to Buyer. Seller agrees to pay, subject to the limitations hereinafter set forth, any final judgment entered against Buyer on such issue in any such suit or proceeding defended by Seller. Buyer agrees that Seller at its sole option shall be relieved of the foregoing obligations unless Buyer notifies Seller promptly in writing of any such claim, suit or proceeding, and gives Seller proper and full information and assistance to settle and/or to defend any such claim, suit or proceeding. If the Product, or any part thereof, furnished by Seller to Buyer becomes, or in the opinion of Seller may become, the subject of any claim, suit or proceeding for infringement of any United States patent, or in the event of an adjudication that the Product or part infringes any United States patent, or if the use or sale of such Product or part is enjoined, Seller may, at its option and its expense: (a) procure for the Buyer the right under such patent to use such Product or part, or (b) replace such Product or part with other suitable products or parts or (c) suitably modify such Product or part, or (d) if the use of such Product or part shall be prevented by permanent injunction, remove such Product or part and refund the aggregate payments paid therefore by Buyer, less a reasonable sum for use and damage. Seller shall have no liability for any infringement arising from: (i) the combination of such Product or part with any other product or part not furnished by Seller to Buyer, (ii) the modification of such Product or part unless such modification was made by Seller, (iii) the furnishing to Buyer of any information, data, service or application assistance, exclusive of maintenance or operational hand-books supplied with the Product or parts, (iv) any third party software included

in the product, or (v) Seller's compliance with Buyer's designs, specifications or instructions. Seller shall not be liable for any costs or expenses incurred without Seller's written authorization. The foregoing states the entire liability by Seller and the exclusive remedy of Buyer with respect to any alleged patent infringement by such Product or part. SELLER SHALL NOT BE LIABLE FOR ANY COLLATERAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF PATENTS. The foregoing states the sole and exclusive liability of Seller for patent infringement and is in lieu of all warranties, expressed or implied, in regard thereto.

17. GOVERNING LAW. This order shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts.
18. ASSIGNMENT. Neither this order nor any interest herein may be assigned, in whole or in part, by Buyer without the prior written consent of Seller, except that Buyer shall have the right to assign this order to any successor by way of merger or consolidation or the acquisition of substantially all of the business and assets of Buyer relating to the subject matter of this order without securing such prior consent. This right shall be retained provided that such successor shall expressly assume all of the obligations and liabilities of the Buyer hereunder and that Buyer shall remain liable and responsible to Seller for the performance and observance of all such obligations.
19. SEVERABILITY. The invalidity in whole or in part of any provision of this order shall not affect the validity of the remaining provisions of this order.
20. INDEMNITY. In entering into this order, Seller is relying on Buyer's representation that this sale is not made pursuant to a U.S. Government prime contract and that no Federal Acquisition Regulation (FAR) or Defense Federal Acquisition Regulation Supplement (DFARS) provisions or clauses thereto will be applicable to this order. Buyer shall have no recourse against Seller in the event that it is subsequently determined that applicable U.S. Government requirements have not been included in this order. Further, Buyer agrees to indemnify and hold Seller harmless for any damages or claims whatsoever, including damages assessed or claims pursued by the U.S. Government relating to Seller's performance under this order to the extent that such damage or claim results directly or indirectly from Buyer's determination that U.S. Government procurement statutes and regulations are inapplicable and not incorporated into this order.
21. EXPORT. Buyer expressly agrees to comply with the United States Department of Commerce Export Regulations and the Department of State International Traffic in Arms Regulations as they currently exist and as the same may be amended from time to time.
22. ENTIRE AGREEMENT. This order constitutes the entire agreement between Buyer and Seller with respect to the subject matter hereof. There are no agreements, understanding, representations or warranties not expressly incorporated. This order supersedes all proposals, previous negotiations and other communications, oral or written, not expressly incorporated herein.

SUPPLEMENTAL TERMS AND CONDITIONS FOR U.S. GOVERNMENT END USE CONTRACTS

IF THE PRODUCTS TO BE FURNISHED UNDER THIS ORDER ARE TO BE USED IN THE PERFORMANCE OF A U.S. GOVERNMENT PRIME CONTRACT OR SUBCONTRACT AND IF A U.S. GOVERNMENT PRIME CONTRACT NUMBER IS IDENTIFIED ON BUYER'S PURCHASE ORDER, THEN CLAUSE NO. 20 "INDEMNITY" IS HEREBY DELETED AND THE FOLLOWING PROVISIONS SHALL APPLY.

PART I

FAR AND DFAR CLAUSES: The following Federal Acquisition Regulation (FAR) or Department of Defense Federal Acquisition Regulation Supplement (DFARS) clauses current as of the date of this order are hereby incorporated by reference with the same force and effect as though herein set forth in full and made a part of this order to the extent same are required by statute, regulation, or Buyer's prime contract. Except as otherwise specifically noted below, the following definitions shall apply to these clauses: "Contractors" shall mean Seller, "Subcontractor" shall mean Seller's subcontractors, "purchase order" or "order" shall mean this sales agreement, and "Contracting Officer" shall mean the Contracting Officer for the U.S. Government prime contract under which Buyer's purchase order is placed, except there shall be no change in meaning so construed to grant patent or data rights to Buyer or to allow Buyer the right to audit or examine Seller's financial books and records. All such clauses shall, with respect to the rights, duties and obligations of the Buyer and Seller thereunder, shall be interpreted and construed in such manner as to recognize and give effect to the contractual relationship between the Buyer and Seller under this order and the rights of the U.S. Government with respect thereto under the prime contract from which such clauses are derived.

(A) FAR

52.203-5	Covenant Against Contingent Fees
52.203-6	Restrictions on Subcontractor Sales to the Government (applicable to orders over $100K)
52.203-7	Anti-kickback Procedures (Except subparagraph (c)(ii)) (applicable to orders over $100K)
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to orders over $100K)
52.203-12	Limitation on Payments to influence Certain Federal Transactions
52.204-2	Security Requirements
52.204-4	Printing/Copying Double-sided on Recycled Paper
52.212-8	Defense Priority and Allocation Requirements
52.215-2	Audit and Records-Negotiation (applicable to orders over $100K)
52.219-8	Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns
52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation (applicable to orders over $100K)
52.222-20	Walsh-Healey Public Contract Act
52.222-26	Equal Opportunity
52.222-35	Affirmative Action for Special and Disabled Vietnam Era Veterans
52.222-36	Affirmative Action for Handicapped Workers
52.222-37	Employment Reports on special Disabled Veterans and Veterans of Vietnam Era
52.223-2	Clean Air and Water (applicable to orders over $100K)
52.223-3	Hazardous Material Identification and Material Safety Data
52.225-11	Restriction On Certain Foreign Purchases
52.227-1	Authorization and Consent
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (applicable to orders over $100K)
52.227-10	Filing of Patent Applications - Classified Subject Matter
52.230-2	Cost Accounting Standards (applicable to orders over $500K)
52.230-3	Disclosure and Consistency of Cost Accounting Practices (applicable to orders over $500K)
52.230-6	Administration of Cost Accounting Standards (applicable to orders over $500K)
52.245-2	Government Property (Fixed-Price Contracts)
52.246-23	Limitation of Liability
52.247-63	Preference for U.S. Flag Air Carriers
52.247-64	Preference for Privately Owned U.S. Flag Commercial Vessels
52.248-1	Value Engineering (applicable to orders over $100K)

(B) DFARS

252.203-7000	Restrictions on Employment of Personnel
252.225-7008	Supplies To Be Accorded Duty-Free Entry
252.225-7009	Duty-Free Entry-Qualifying Country Supplies
252.225-7010	Duty-Free Entry-Additional Provisions
252.225-7012	Preference for Domestic Specialty Metals
252-227-7013	Rights in Technical Data and Computer Software
252.227-7014	Rights in Noncommercial Computer Software and NonCommercial Computer Software Documentation
252.247-7023	Transportation of Supplies by Sea

PART II

(A) COST OR PRICING DATA. If any price, including profit or fee, negotiated under this order was increased by any significant sums because Seller furnished incomplete or inaccurate cost or pricing data or data which was not current as certified in Seller's Certificate of Current Cost or Pricing Data and is cause for reduction by the Government Contracting Officer of the price of the Buyer's prime contract to which this order is charged, Seller shall, upon reduction by the Government Contracting Officer of the price of Buyer's prime contract, pay to Buyer an amount equal to said price reduction excluding that portion of the price reduction attributable to the Buyer's overhead, cost of money, warranty, general and administrative (G&A) expense, interest and profit or fee. If the Government releases an audit report to Buyer that alleges cost or pricing data was incomplete or inaccurate cost or pricing data or data which was not current as certified in Seller's Certificate of Current Cost or Pricing Data, Buyer agrees to furnish such audit report within five (5) days from receipt of the audit report by the Buyer. Failure to agree to any adjustment under this provision shall be a dispute concerning a question of fact within the meaning of the provision entitled "Disputes".

(B) COST ACCOUNTING STANDARDS. If any cost/price, including profit or fee, negotiated under this order was affected by any amount because Seller, pursuant to the provision entitled "Cost Accounting Standards", failed to comply with an applicable cost accounting standard or to follow any practice disclosed pursuant to the cost accounting standard requirement, and such failure is the cause for a reduction by the Government Contracting Officer of the price of the Buyer's prime contract under which this order is issued, Seller shall, upon a reduction of the price of the Buyer's prime contract, pay to the Buyer an amount equal to said price reduction of the Buyer's prime contract excluding that portion of the price reduction attributable to the Buyer's overhead, cost of money, warranty, general and administrative (G&A) expense, interest and profit or fee. If the Government releases an audit report to Buyer that alleges Seller has not complied with the Cost Accounting Standards, Buyer agrees to furnish such audit report within five (5) days from receipt of the audit report by the Buyer. Failure to agree to any adjustment under this provision shall be a dispute concerning a question of fact within the meaning of the provision entitled "Disputes".

(C) COMMERCIAL COMPUTER SOFTWARE. The product ordered contains software in firmware form licensed by Seller from third parties. If the product is purchased by or on behalf of any unit or agency of the United States Government other than DoD, then "Restricted Rights" in accordance with subparagraphs (a) through (d) of the "Commercial Computer Software - Restricted Rights" clause at 48 C.F.R. 52.227-19 of the Federal Acquisition Regulations and its successors shall apply and the Government's rights in the Licensed Product and Documentation shall be as defined therein. If the product is purchased by or on behalf of any unit or agency of DoD, the Government hereby agrees that the software qualifies as commercial computer software within the meaning of the acquisition regulation applicable to this procurement. The terms and conditions of this order shall pertain to the Government's use and disclosure of the software, and shall supersede any conflicting contractual terms or conditions.

(D) DISPUTES. Notwithstanding any provisions herein to the contrary, if a decision on any question of fact arising under the prime contract is made by the Contracting Officer and such question of fact is also related to this order, said decision, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller with respect to such question of fact under this order provided, however, that within forty-five (45) calendar days of Buyer's receipt of the decision, (i) Buyer furnishes Seller with a copy of the decision and (ii) Buyer notifies Seller in writing of its decision to appeal or not to appeal a decision. If Seller disagrees with any such decision made by the Contracting Officer, and if Buyer elects not to appeal such decision on its own behalf and at its own expense, Seller shall have the right to appeal, in the name of Buyer, to the appropriate Board of Contract Appeals or the Claims Court. Provided Buyer complies with its obligations under this provision and allows Seller the opportunity to participate in such appeal to the extent of Seller's interest in such action, any decision upon such appeal, if binding upon Buyer shall in turn be binding upon Seller. Pending the making of any decision pursuant to this clause, Seller shall proceed diligently with performance. Any dispute arising from this order which is not a question of fact arising from the prime contract and which is not disposed of by agreement of the parties shall be decided by a court of competent jurisdiction in the Commonwealth of Massachusetts. Buyer and Seller shall each bear their own costs of processing the dispute.

(E) GOVERNING LAW: In connection with a U.S. Government prime contract, Clause 17, GOVERNING LAW, shall be considered deleted and this order shall be construed and interpreted in accordance with the federal common law of Government contracts as enunciated and applied by federal judicial bodies and boards of contract appeals. To the extent that the federal common law of Government contracts is not dispositive, this order and performance thereof shall be governed by, and interpreted under the laws of the Commonwealth of Massachusetts.

(F) INSPECTION AND ACCEPTANCE: If the products being sold are for U.S. Government end-use, Seller shall provide and maintain an inspection system, acceptable to the Government covering products under this order. All products may be subject to inspection and test by either Buyer or the Government to the extent practicable at all reasonable times and places, including the period of manufacture, prior to final acceptance. Records of all inspection work by Seller shall be kept complete and available to the Government or Buyer during the performance of this order and for such longer period as may be specified elsewhere in this order.

(G) CHANGES: If the products covered by the order are being purchased pursuant to a U.S. Government prime contract, or for use in the performance of a U.S. Government prime contract, then the Federal Acquisition Regulation (FAR) clause 52.243-1, Changes (Fixed-Price) in effect on the date of this order is hereby incorporated by reference. For purposes of this order, the terms "Contracting Officer" and "Government" within FAR 52.243-1 shall mean "Buyer" and the term "Contractor" shall mean "Seller".

(H) TERMINATION: If the products covered by this order are being purchased for ultimate delivery to the U.S. Government pursuant to a U.S. Government prime contract, with or without other equipment, and the U.S. Government prime contract is terminated for convenience, and such termination necessitates the complete or partial termination for convenience of this order, then the affected portion of this order may be terminated only in accordance with the principles contained in Federal Acquisition Regulation (FAR) 52.249-2. Termination for the Convenience of the Government (Fixed Price), as in effect on the date of this order.

PART III

Notwithstanding the foregoing, in no event shall Seller be bound by any terms of Buyer's prime contract unless such terms are incorporated by these SUPPLEMENTAL TERMS AND CONDITIONS FOR U.S. GOVERNMENT END USE CONTRACTS or formally accepted in writing by Seller.