

Date: 14 December 1999

## EXHIBIT A

### GOVERNMENT FLOWDOWN PROVISIONS APPLICABLE TO PRIME CONTRACT DAAH01-99-3-R001

The following clauses are hereby incorporated into this Purchase Contract. Where necessary or appropriate to derive proper meaning in a subcontract situation, "Recipient" shall mean Seller and "subrecipients" shall mean Seller's subcontractors.

#### 1. PATENT RIGHTS

##### A. Definitions

1. "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.
2. "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.
3. "Practical application" means to manufacture, in the case of a composition of product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case under such conditions as to establish that the invention is capable of being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.
4. "Subject invention" means any invention conceived or first actually reduced to practice in the performance of work under this Agreement.

##### A. Allocation of Principal Rights

Unless the Recipient shall have notified AMCOM (in accordance with subparagraph C.2. below) that the Recipient does not intend to retain title, the Recipient shall retain the entire right, title, and interest throughout the world to each subject invention consistent with the provisions of this Article and 35 U.S.C. § 202. With respect to any subject invention in which the Recipient retains title, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced on behalf of the United States the subject invention throughout the world.

##### B. Invention Disclosure, Election of Title, and Filing of Patent Application

1. The Recipient shall disclose each subject invention to AMCOM within six (6) months after the inventor discloses it in writing to his company personnel responsible for patent matters. The disclosure to AMCOM shall be in the form of a written report and shall identify the Agreement under which the invention was made and the identity of the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. The Recipient shall also provide AMCOM a final report three months after completion or termination of this Agreement which lists all subject inventions.
2. If the Recipient determines that it does not intend to retain title to any such invention, the Recipient shall notify AMCOM, in writing, within eight (8) months of disclosure to AMCOM. However, in any case where publication, sale, or public use has initiated the one (1)-year statutory period wherein valid patent protection can still be

obtained in the United States, the period for such notice may be shortened by AMCOM to a date that is no more than sixty (60) calendar days prior to the end of the statutory period.

3. The Recipient shall file its initial patent application on a subject invention to which it elects to retain title within one (1)-year after election of title or, if earlier, prior to the end of the statutory period wherein valid patent protection can be obtained in the United States after a publication, or sale, or public use. The Recipient may elect to file patent applications in additional countries (including the European Patent Office and the Patent Cooperation Treaty) within either ten (10) months of the corresponding initial patent application or six (6) months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications, where such filing has been prohibited by a Secrecy Order.
4. Requests for extension of the time for disclosure election, and filing under Article VII, Patent Rights, paragraph C, may, at the discretion of AMCOM, and after considering the position of the Recipient, be granted.

#### D. Conditions When the Government May Obtain Title

Upon AMCOM's written request, the Recipient shall convey title to any subject invention to AMCOM under any of the following conditions:

1. If the Recipient fails to disclose or elects not to retain title to the subject invention within the times specified in paragraph C of this Article; provided, that AMCOM may only request title within sixty (60) calendar days after learning of the failure of the Recipient to disclose or elect within the specified times;
2. In those countries in which the Recipient fails to file patent applications within the times specified in paragraph C of this Article; provided, that if the Recipient has filed a patent application in a country after the times specified in paragraph C of this Article, but prior to its receipt of the written request by AMCOM, the Recipient shall continue to retain title in that country; or
3. In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceedings on, a patent on a subject invention.

#### E. Minimum Rights to the Recipient and Protection of the Recipient's Right to File

1. The Recipient shall retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the invention within the times specified in paragraph C of this Article, unless otherwise agreed to between the Parties. The Recipient's license extends to the domestic (including Canada) subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a Party and includes the right to grant licenses of the same scope to the extent that the Recipient was legally obligated to do so at the time the Agreement was awarded. The license is transferable only with the approval of AMCOM, except when transferred to the successor of that part of the business to which the invention pertains. AMCOM approval for license transfer shall not be unreasonably withheld.
2. The Recipient domestic license may be revoked or modified by AMCOM to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted consistent with appropriate provisions at 37 CFR Part 404. This license shall not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of AMCOM to the extent the Recipient, its licensees, or the subsidiaries or affiliates have failed to achieve practical application in that foreign country.
3. Before revocation or modification of the license, AMCOM shall furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient shall be allowed thirty (30) calendar days (or such other time as may be authorized for good cause shown) after the notice to show cause why the license should not be revoked or modified.

#### F. Action to Protect the Government's Interest

1. The Recipient agrees to execute or to have executed and promptly deliver to AMCOM all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Recipient elects to retain title, and (ii) convey title to the Government when requested under paragraph D of this

- Article and to enable the Government to obtain patent protection throughout the world in that subject invention.
2. The Recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under this Agreement in order that the Recipient can comply with the disclosure provisions of paragraph C of this Article. The Recipient shall instruct employee, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.
  3. The Recipient shall notify AMCOM of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceedings on a patent, in any country, not less than thirty (30) calendar days before the expiration of the response period required by the relevant patent office.
  4. The Recipient shall include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under Agreement No. DAAH01-99-3-R001 awarded by the United States Army. The Government has certain rights in the invention."

#### F. Lower Tier Agreements

The Recipient shall include this Article, suitably modified, to identify the Parties, in all subagreements or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

#### G. Reporting on Utilization of Subject Inventions

The Recipient agrees to submit, during the term of the Agreement, an annual report on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or licensees or assignees of the inventor. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient, and such other data and information as the agency may reasonably specify. The Recipient also agrees to provide additional reports as may be requested by AMCOM in connection with any march-in proceedings undertaken by the Government in accordance with paragraph J of this Article. Consistent with 35 U.S.C. § 202(c)(5), the Government agrees it shall not disclose such information to persons outside the Government without permission of the Recipient.

#### H. Preference for American Industry

Notwithstanding any other provision of this clause, the Recipient agrees that it shall not grant to any person the exclusive right to use or sell any subject invention in the United States or Canada unless such person agrees that any product embodying the subject invention or produced through the use of the subject invention shall be manufactured substantially in the United States or Canada. However, in individual cases, the requirements for such an agreement may be waived by AMCOM upon a showing by the Recipient that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that, under the circumstances, domestic manufacture is not commercially feasible.

#### I. March-In Rights

The Recipient agrees that, with respect to any subject invention in which it has retained title, AMCOM has the right to require the Recipient, an assignee, or exclusive licensee of a subject invention to a grant a non-exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Recipient, assignee, or exclusive licensee refuses such a request, the Government has the right to grant such a license itself if the Government determines that:

1. Such action is necessary because the Recipient or assignee has not taken effective steps, consistent with the intent of this Agreement, to achieve practical application of the subject invention;
2. Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

3. Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by the Recipient, assignee, or licensees; or
4. Such action is necessary because the agreement required by paragraph (l) of this Article has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such Agreement.

#### F. Sublicense Rights

The Government to sublicense shall have right to license to the United Kingdom, Ministry of Defense, its nationals and international organizations pursuant to its agreements with that country. Such sublicense shall be similarly limited to practicing or having practiced on behalf of the United Kingdom government the subject invention throughout the world.

## 2. DATA RIGHTS

### A. Definitions

- a. "Government Purpose Rights" as used in this Article, means the right of the Government to use, modify, reproduce, release or disclose technical data and computer software within the Government without restriction and to permit third parties outside the Government to do so only for Government purposes. Government purposes do not include the right to use or permit others to use the technical data or computer software for commercial purposes.
  - b. "Technical Data" as used in this Agreement, means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.
  - c. "Computer Software" as used in this Agreement, means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated or recompiled. Computer software does not include computer software documentation.
  - d. "Computer Software Documentation" as used in this Agreement, means owners manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.
  - e. "Detailed Manufacturing or Process Data" as used in this Agreement, means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.
  - f. "Form, Fit, and Function Data" as used in this Agreement, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specially excludes the source code, algorithm, process, formulae, and flow charts of the software.
1. The Parties agree that the Recipient intends to reduce to practical application the items, components and processes proposed to be developed under this Agreement. The Technical Data and Computer Software related to those items, components or processes will be furnished with Government Purpose Rights.
  2. In reaching this Agreement with respect to that data the Parties have agreed and stated here for the purpose of clarity, that the Recipient is not required to deliver Detailed Manufacturing or Process Data. Instead, Recipient will provide Form, Fit and Function design information when appropriate.
  3. Recipient further agrees to provide the Government with that Technical Data and Computer Software necessary to enable the Recipient to assemble and test the items to be delivered hereunder in a working Low Maintenance Rotor Hub.

### **3. FOREIGN ACCESS TO TECHNOLOGY**

Without prior approval from the Buyer, the Recipient may not exclusively license subject inventions as defined in 37 CFR 401.14 to foreign firms or countries that would allow the manufacture in foreign countries of products that result from research under this Agreement.

### **4. CIVIL RIGHTS ACT**

This Agreement is subject to the compliance requirements of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000-d) relating to nondiscrimination in Federally assisted programs.