

Date: June 2000**EXHIBIT A**

**GOVERNMENT PROVISIONS
APPLICABLE TO
PRIME CONTRACT HQ 0006-98-C-0003**

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 in April 30, 1998. [R/Rev. A]

**FAR/DFARS
Reference**

Title

52.204-2	Security Requirements (AUG 96) (Applies only if the contract requires access to classified information, "Government" means Buyer or the Government.)	
52.211-15	Defense Priority and Allocation Requirements (SEP 90)	
52.215-27	Termination of Defined Benefit Pension Plans (MAR 96) ("Contracting Officer" means Buyer and Seller's cognizant ACO.) (Applicable only if contract is other than firm-fixed-price or if certified cost or pricing data was provided.)	
52.215-40	Notification of Ownership Changes (FEB 95)	
52.219-8	Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (JUN 97)	
52.222-1	Notice of Labor Disputes (FEB 97) ("Contracting Officer" means Buyer.)	
52.222-26	Equal Opportunity (FEB 99) [Subparagraphs (b)(1) through (11)]	A/Rev. A
52.223-3	Hazardous Material Identification and Material Safety Data (JAN 97) (Applies only if hazardous material will be delivered)	
52.223-7	Notice of Radioactive Materials (JAN 97) (In paragraph (1) insert "sixty (60)" before "days".)	A/Rev. A
52.223-11	Ozone Depleting Substances (JUN 96)	A/Rev. A
52.225-10	Duty-Free Entry (APR 84)	A/Rev. A
52.225-11	Restrictions on Certain Foreign Purchases (OCT 96) ("Contracting Officer" means Buyer.)	
52.227-1, Alt. I	Authorization and Consent (JUL 95, APR 84)	
52.227-10	Filing of Patent Applications - Classified Subject Matter (APR 84) (Applies only if contract will involve access to classified information)	

52.227-11	Patent Rights - Retention by Contractor (Short Form) (JUN 97) (Applies only if Special Provision F.1 is included and Seller is a small business or non-profit organization.)	
52.227-12	Patent Rights - Retention by Contractor (Long Form) (JAN 97) (Applies only if Special Provision F.1 is included and Seller is <u>not</u> a small business or non-profit organization.)	
52.237-2	Protection of Government Buildings, Equipment and Vegetation (APR 84) (Applies only if work will be performed on a government installation. "Contracting Officer" means Buyer.)	
52.242-15	Stop Work Order (AUG 89) ("Contracting Officer" means Buyer)	
52.244-2	Subcontracts, Alt. I (AUG 98)	A/Rev. A
52.244-5	Competition in Subcontracting (DEC 96)	
52.244-6	Subcontracts for Commercial Items and Commercial Components (OCT 95)	
52.246-23	Limitation of Liability (FEB 97) (This clause can be used only at the request of the supplier and with the advance written consent of the Contracting Officer.)	A/Rev. A
52.246-25	Limitation of Liability -- Services (FEB 97) (This clause can be used only at the request of the supplier and with the advance written consent of the Contracting Officer.)	A/Rev. A
52.247-63	Preference for U.S.-Flag Air Carriers (JAN 97)	
252.204-7000	Disclosure of Information (DEC 91)	
252.208-7000	Intent to Furnish Precious Metals as Government-Furnished Material (DEC 91)	
252.215-7000	Pricing Adjustments (DEC 91)	
252.223-7001	Hazard Warning Labels (DEC 91)	
252.223-7002	Safety Precautions for Ammunition and Explosives (MAY 94) (Applies only if contract involves ammunition or explosives.)	
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (FEB 96)	A/Rev. A
252.225-7002	Qualifying Country Sources as Subcontractors (DEC 91)	A/Rev. A
252.225-7012	Preference for Certain Domestic Commodities (SEP 97)	
252.225-7016	Restriction on Acquisition of Ball and Roller Bearings (FEB 98)	
252.225-7022	Restriction on Acquisition of Polyacrylonitrile (PAN) Based Carbon Fiber (JUN 97)	
252.225-7030	Restriction on Acquisition of Carbon, Alloy and Armor Steel Plate (OCT 92)	
252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (JUN 95)	
252.231-7000	Supplemental Cost Principles (DEC 91)	

- 252.235-7003 Frequency Authorization (DEC 91) (Applies only if contract involves developing, producing, testing or operating a device requiring radio frequency authorization.)
- 252.246-7000 Material Inspection and Receiving Report (DEC 91) A/Rev. A
- 252.247-7024 Notification of Transportation of Supplies by Sea (NOV 95)

The following clause also applies if the contract price exceeds \$2,500:

- 52.222-36 Affirmative Action for Workers with Disabilities (APR 84)

The following clauses also apply if the contract price exceeds \$10,000:

- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)
- 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (JAN 88)

The following clauses also apply if the contract price exceeds \$100,000:

- 52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 95)
- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 91) (Seller's signed proposal provided the required certification.)
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 97) (The disclosures of Seller and its lower tier subcontractors required by paragraph (c) shall be submitted to Buyer's Material Representative.)
- 52.215-2 Audit and Records-Negotiation (AUG 96) (Applies only if contract is other than Firm-Fixed-Price, if cost or pricing data was required or if cost, funding or performance reports will be furnished.)
- 52.223-2 Clean Air and Water (APR 84) (Also applicable if Seller's facility has been the subject of a conviction under the Clean Air Act or Federal Water Pollution Control Act.)
- 52.223-14 Toxic Chemical Release Reporting (OCT 96) (Paragraph (e) is deleted and "Contracting Officer" in paragraph (d) means Buyer.)
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 96) ("Contracting Officer" means Buyer.)
- 52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels A/Rev. A
(JUN 97) (**Flowdown not required for subcontracts awarded beginning 5/1/96.**)
- 252.203-7001 Special Prohibition on Employment (JUN 97)
- 252.209-7000 Acquisition from Subcontractors Subject to On-Site Inspection Under the Intermediate - Range Nuclear Forces (INT) Treaty (NOV 95)
- 252.225-7026 (DELETED. See next section - "...exceeds \$500,000".) D/Rev. A
- 252.247-7023 Transportation of Supplies by Sea (NOV 95)

The following clauses also apply if the contract price exceeds \$500,000:

52.215-39	Reversion or Adjustment of Plans for Post-Retirement Benefits other than Pensions. (MAR 96) (Applicable only if certified cost or pricing data is provided.)	
52.219-9	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (AUG 96) (Applies only if Seller is <u>not</u> a small business. "Contracting Officer" in paragraphs (b) and (c) means Buyer.)	R/Rev. A
52.230-2	Cost Accounting Standards (APR 96) (This clause applies only if Seller is subject to Cost Accounting Standards (CAS) and if this contract exceeds \$500,000. Per 52.230-6(e)(1), self-deleting clauses shall not be used.)	A/Rev. A
52.230-6	Administration of Cost Accounting Standards (NOV 99) (Add "Buyer and "before "Contracting Officer" in paragraph (e).) (This clause applies only if FAR 52.230-2 or -3 is contained in the prime contract.)	A/Rev. A
252.225-7026	Reporting of Contract Performance Outside the United States" (MAR 98) (not applicable if only commercial products are involved.) (This clause applies only if this contract exceeds \$500,000 and is not for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.)	A/Rev. A

The following clauses also apply if the contract price exceeds \$1,000,000:

252.211-7000	Acquisition Streamlining (DEC 91)	
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The following clauses also 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)	A/Rev. A
252.227-7016	Rights in Bid or Proposal Information (JUN 95)	A/Rev. A
252.227-7019	Validation of Asserted Restrictions - Computer Software (JUN 95)	A/Rev. A
252.227-7027	Deferred Ordering of Technical Data or Computer Software (APR 88)	
252.227-7030	Technical Data - Withholding of Payment (OCT 88) ("Contracting Officer" and "Government" means Buyer.)	
252.227-7036	Declaration of Technical Data Conformity (JAN 97)	
252.227-7037	Validation of Restrictive Markings on Technical Data (NOV 95)	

Additional Provisions:

DEFENSE PRIORITY RATING. If a defense priority rating is identified on the face of this contract, this is a rated order certified for national defense use and the Seller shall follow all the requirements of the Defense Priorities and Allocations Systems Regulation (15 CFR Part 700). Including accepting or rejecting this contract in writing within ten working days after receipt of DO rated or five days after receipt if DX rated. If rejected, the reason(s) for such rejection shall be included in the notice to the Buyer. (A/Rev. A)

ANTI-KICKBACK PROCEDURES. Seller agrees to abide by the Anti-Kickback Act of 1986 (41 U.S.C. 51 through 58) and FAR 52.203-7, "Anti-Kickback Procedures" which is incorporated herein by reference, except that subparagraph (c)(1) of FAR 52.203-7 shall not apply to Seller, and further that in subparagraphs (c)(2), (c)(3), and (c)(5), the term "Contractor" shall mean Seller, and in subparagraph (c)(4) the term "Prime Contractor" shall mean Buyer and the term "Subcontractor" shall mean Seller. In addition to reporting possible violations of the Anti-Kickback Act to the Government pursuant to 41 U.S.C. §57(c), Seller shall report such possible violations, if related to Buyer, to the Director of Materiel and/or the Division Counsel of the Boeing division or subsidiary issuing this contract. Seller agrees to hold Buyer harmless from, defend Buyer against, and indemnify Buyer for all costs, expenses, and offsets Buyer may incur as a consequence of violations of this clause by Seller or by Seller's subcontractors or suppliers. The rights and obligations set forth in this clause shall survive completion of, final payment under, or termination of, this order. (A/Rev. A)

Section H - Special Contract Requirements:

H-4 Public Release of Information

A/Rev. A

a. The policies and procedures outlined herein apply to information submitted by the Contractor and his subcontractors for approval for public release. Prior to public release, all information shall be cleared as shown in the "National Industrial Security Program Operating Manual" (DoD 5220.22-M).

b. All public information materials prepared by the Contractor shall be submitted to the BMDO (see paragraph e. below) for clearance prior to release. These materials include, but are not limited to, technical papers, and responses to news queries which relate to a Contractor's work under this contract.

c. However, once information has been cleared for public release, it does not have to be cleared again for later use. The information shall be used in its originally cleared context.

d. The BMDO Director for External Affairs is responsible for processing Contractor-originated material for public release.

e. All material to be cleared shall be sent to:

Office of the Secretary of Defense

Ballistic Missile Defense Organization

7100 Defense Pentagon, BMDO/SRE

Washington, DC 20301-7100

Subcontractor proposed public releases shall be submitted for approval through the prime contractor.

f. The Contractor shall submit the material proposed for public release to the above addressee by a letter of transmittal which states: (1) to whom the material is to be released; (2) the desired date for public release; (3) that the material has been reviewed and approved by officials of the Contractor, or the subcontractor, for public release; and (4) the contract number and the applicable COR(s).

g. Two (2) copies of each item, including written material, photographs, drawings, "dummy layouts" and the like shall be submitted at least six (6) weeks in advance of the proposed release date.

- h. The items submitted must be complete. Photographs shall have captions.
- i. Abbreviated materials or abstracts may be submitted if the intent is to determine the feasibility of going further in preparing a complete paper for clearance. However, final approval for release or disclosure of the material cannot be given on the basis of abstracts.
- j. Outlines or rough drafts will not be cleared.
- k. Materials submitted to BMDO for release purposes shall be void of all Contractor logos or other attributions to the Contractor.

H-5 Organizational Conflict of Interest (OCI)

A/Rev. A

a. Purpose: The primary purpose of this clause is to aid in ensuring that:

(1) the Contractor's scientific objectivity and judgment are not biased because of its present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to work under this contract;

(2) the Contractor does not obtain an unfair competitive advantage by virtue of its access to non-public Government information regarding the Government's program plans and actual or anticipated resources; and

(3) the Contractor does not obtain any unfair competitive advantage by virtue of its access to proprietary information belonging to others;

b. Scope: The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Contractor") in the activities covered by this clause as prime Contractor, subcontractor, co-sponsor, joint venturer, consultant, or in any similar capacity. The term "proprietary information" for purposes of this clause is any information considered so valuable by its owners that it is held secret by them and their licensees. Information furnished voluntarily by the owner without limitations on its use, or which is available without restrictions from other sources, is not considered proprietary.

(1) System Engineering and Integration (SE&I): TRW (current SE&I contractor) has agreed that the TRW employees who are working in the program office located in Rosslyn, Virginia, responsible for NMD Systems Engineering on or after the date of the issuance of the final CD phase RFP will be isolated and ineligible to participate in the CD phase or LSI Execution proposal. While element contractors will provide limited technical support to the LSI Contractor, element contractors will not be restricted in establishing teaming arrangements for the LSI Execution phase. In addition, both TRW and Raytheon have agreed to negotiate, in good faith, subcontractor relationships with the selected LSI phase contractor to provide the BMC3 and GBR elements of the LSI phase contract, no matter who is selected.

(2) Certification Restriction: The Contractor shall be restricted from performing validation, verification, accreditation, or certification of any products developed or delivered under this contract. Additionally, the Contractor shall not serve as a software independent validation and verification (IV&V) contractor for any software developed or delivered under this contract.

(3) Access To and Use of Government Information: If the Contractor, in the performance of this contract, obtains access to information such as plans, policies, reports, studies, financial plans, or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the Contracting Officer, it shall not: (a) use such information for any private purpose unless the information has been released or otherwise made available to the public, (b) compete for work, other than the LSI contract, based on such information after the completion of this contract, or until such information is released or otherwise made available to the public, whichever occurs first, (c) submit an unsolicited proposal to the Government which is based on such information after such information is released or otherwise made available to the public, or (d) release such information unless such information has previously been released or otherwise made available to the public by the Government.

(4) Access To and Protection of Proprietary Information: The Contractor agrees that, to the extent it receives or is given access to proprietary data, trade secrets, or other confidential or privileged technical, business, or financial information (hereinafter referred to as "proprietary data") under this contract, it shall treat such information in accordance with any restrictions imposed on such information. The Contractor further agrees to enter into a written agreement for the protection of the proprietary data of others and to exercise diligent effort to protect such proprietary data from unauthorized use or disclosure. In addition, the Contractor shall obtain from each employee who has access to proprietary data under this contract, a written agreement which shall in substance provide that such employee shall not, during his/her employment by the Contractor or thereafter, disclose to others or use for their benefit, proprietary data received in connection with the work under this contract. The Contractor will educate its employees regarding the philosophy of Part 9.505-4 of the Federal Acquisition Regulation so that they will not use or disclose proprietary information or data generated or acquired in the performance of this contract except as provided herein.

c. Subcontracts: The Contractor shall include this or substantially the same clause, including this paragraph, in consulting agreements and subcontracts of all tiers. The terms "Contract", "Contractor" and "Contracting Officer", will be appropriately modified to preserve the Government's rights.

d. Disclosures: If the Contractor discovers an organizational conflict of interest or potential conflict of interest after award, a prompt and full disclosure shall be made in writing to the Contracting Officer. This disclosure shall be made on the OCI Analysis/Disclosure Form provided at Attachment 10 to the contract, and shall include a description of the action the Contractor has taken or proposes to take in order to avoid or mitigate such conflicts.

e. Remedies and Waiver:

(1) For breach of any of the above restrictions or for non-disclosure or misrepresentation of any relevant facts required to be disclosed concerning this contract, the Government may terminate this contract for default, disqualify the Contractor for subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract. If, however, in compliance with this clause, the Contractor discovers and promptly reports an organizational conflict of interest (or the potential thereof) subsequent to contract award, the Contracting Officer may terminate this Contract for convenience if such termination is deemed to be in the best interest of the Government.

(2) The parties recognize that this clause has potential effects which will survive the performance of this contract and that it is impossible to foresee each circumstance to which it might be applied in the future. Accordingly, the Contractor may at any time seek a waiver from the Director, BMDO, (via the Contracting Officer) by submitting a full written description of the requested waiver and the reasons in support thereof.

f. Modifications: Prior to contract modification, when the SOW is changed to add new work or the period of performance is significantly increased, the Contracting Officer may require the Contractor to submit either an organizational conflict of interest disclosure or an update of the previously submitted disclosure or representation.

H-6 Enabling Clause for NMD Interface Support

A/Rev. A

a. It is anticipated that, during the performance of this contract, the Contractor may be required to support meetings with other BMD Contractors and other Government agencies. Appropriate organizational conflict of interest agreements will be negotiated, by the Contractor, as needed to protect the rights of the Contractor and the Government.

b. The Contractor further agrees to include a clause in each subcontract requiring compliance with the provisions of paragraph a. above, subject to coordination with the prime Contractor. This agreement does not relieve the Contractor of its responsibility to manage its subcontracts effectively, nor is it intended to establish privity of contract between the Government and such subcontractors.

c. Personnel from BMD Contractors or other Government agencies or Contractors are not authorized to direct the Contractor in any manner.

d. This clause shall not prejudice the Contractor or its subcontractors from negotiating separate

organizational conflict of interest agreements with BMD Contractors; however, these agreements shall not restrict any of the Government's rights established pursuant to this clause.

H-31 Indemnification Against Unusually Hazardous Risks

A/Rev. A

a. Definitions. For the purpose of clause DFARS 252.235-7001, entitled "Indemnification Under 10 U.S.C. 2354 - Cost Reimbursement (DEC 1991)", it is agreed that risks arising out of or resulting from:

- (1) The burning, explosion, or detonation of propellants (liquid, solid, or gaseous), their constituent components or their degradation products during preparation, mixing, storage, or loading.
- (2) The burning, explosion, or detonation of liquid fueled rocket engines or solid fueled rocket motors during preparation, casting, curing, storing, testing, transporting, launch preparation, or launch;
- (3) The burning, explosion or detonation of launch vehicles or their components during testing, transporting, launch preparation or launch;
- (4) The toxic or other unusually hazardous properties of propellants (liquid, solid, or gaseous) or inert gases, their constituent ingredients, or their degradation products;
- (5) The flight or surface impact of launch vehicles or components or fragments thereof; are "unusually hazardous risks", to the extent such risks arise out of performance of this contract.

b. Applicability. In addition to indemnification of the Contractor (including the McDonnell Douglas Aerospace subsidiary), the Contracting Officer has approved the flowdown of indemnification to the following subcontractors: **Raytheon Electronic Systems, Alliant Techsystems, Inc., Chemical Systems Division (CSD) of Pratt & Whitney, TRW Inc., and Lockheed Martin Missiles & Space (LMMS), a division of Lockheed Martin Corporation.**

H-39 Export of Technical Data and Defense Services in the Conduct of NMD Activities

A/Rev. A

a. In the performance of the contract Statement of Work, the LSI Contractor and its Subcontractors will be expected to support the Ballistic Missile Defense Organization (BMDO) in its activities with foreign entities and/or persons. This activity could include the export of defense services and/or technical data, including classified information as long as that information does not disclose the details of design, development, production or manufacture of any defense article.

b. When directed in writing from the Contracting Officer or from the Deputy for Systems Integration (JN//BMDO), the LSI Contractor, acting as an agent of BMDO for the purposes of export control, shall export on behalf of BMDO technical data to a named foreign entity or persons in the manner and under the conditions provided for in the direction.

c. When, in the performance of this contract, the need arises for the LSI Contractor and its Subcontractors to export defense services, the LSI Contractor and its Subcontractors shall export those services subject to the applicable requirements of the U.S. export control laws and regulations.

d. Nothing in this clause shall affect the protection or allocation of rights to technical data between BMDO and the LSI Contractor or any Subcontractors as provided for in this contract or subcontract hereunder; nor shall this clause affect the scope of any license otherwise granted to the Government or the recipient of the transferred or disclosed technical data.

e. Transfer of all technical data must follow the provisions of the Internal Control Plan currently under development by the LSI Contractor. Nothing in this clause shall relieve the contractor from compliance with the U.S. export control laws and regulations

f. The LSI Contractor shall include this clause in all subcontracts at any tier (suitably modified to reflect the relationship of the parties), the performance of which may require the export of technical data and/or defense services, and the LSI Contractor may direct an export on behalf of BMDO subject to the limitations stated herein.

A = ADDED

D = DELETED

R = REVISED