

Date: March 2001

**EXHIBIT A
APPLICABLE TO
PRIME CONTRACT N00421-01-3-0098**

PATENT RIGHTS (from Article 10 of the prime contract)

1. Definitions

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

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

1.3. "Practical application" means to manufacture, in the case of a composition of matter or 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.

1.4. "Subject invention" means any invention conceived or first actually reduced to practice in the performance of work under this contract.

1.5. "Existing Inventions" means any invention or discovery which is or maybe patentable or otherwise protectable under Title 35 of the United States Code which exists or can reasonably be shown to have existed prior to and not related to, work performed under this contract.

1.6. "Proprietary Information" means any information which is provided to the U.S. Government, or its agents marked as "Proprietary," used for the execution of the work covered by this contract and can reasonably be shown to have been conceived or first actually reduced to tangible form prior to the performance of this contract or outside the performance of work under this contract.

1.7. "Government Purpose" means any activity in which the United States Government is a party, including Technology Investment Agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.

2. Allocation of Principal Rights

2.1. Seller shall retain the entire right, title and interest throughout the world to all Existing Inventions, patents or other information designated as Proprietary Information, related to work under this contract.

2.2. Unless Seller shall have notified Buyer and the U.S. Government (in accordance with subparagraph 3.2 below) that Seller does not intend to retain title, Seller 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 Seller retains title, the U.S. Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced on behalf of the United States for Government purposes, the subject invention throughout the world.

3. Invention Disclosure, Election of Title, and Filing of Patent Application

3.1. Seller shall disclose each subject invention to Buyer and the U.S. Government (through the Agreements Officer) within six (6) months after the inventor discloses it in writing to his/her company personnel responsible for patent matters. The disclosure to Buyer and the U.S. Government shall be in the form of a written report and shall identify the contract 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, optical, 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. Seller shall also submit to Buyer and the U.S. Government an annual listing of subject inventions.

3.2. If Seller determines that it does not intend to retain title to any such invention, Seller shall notify Buyer and the U.S. Government, in writing, within eight (8) months of disclosure to Buyer and the U.S. Government. 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 the U.S. Government to a date that is no more than sixty (60) calendar days prior to the end of the statutory period.

3.3. Seller 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. Seller 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.

3.4. Requests for extension of the time for disclosure, election, and filing under paragraph 3, may, at the discretion of Buyer and/or the U.S. Government, and after considering the position of Seller, be granted.

4. Conditions When the U.S. Government May Obtain Title

Upon the U.S. Government's written request, Seller shall convey title to any subject invention to the U.S. Government under any of the following conditions:

4.1. If Seller fails to disclose or elects not to retain title to the subject invention within the times specified in paragraph 3 of this Article; provided, that the U.S. Government may only request title within sixty (60) calendar days after learning of the failure of Seller to disclose or elect within the specified times.

4.2. In those countries in which Seller fails to file patent applications within the times specified in paragraph 3 of this Article; provided, that if Seller has filed a patent application in a country after the times specified in paragraph 3 of this Article, but prior to its receipt of the written request by the U.S. Government, Seller shall continue to retain title in that country; or,

4.3. In any country in which Seller 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, if the U.S. Government, at its expense, is going to continue to retain title in that country.

5. Minimum Rights to the Seller and Protection of the Seller's Right to File

5.1. Seller shall retain a nonexclusive, fully-paid, royalty free license throughout the world in each subject invention to which the U.S. Government obtains title, except if Seller fails to disclose the subject invention within the times specified in paragraph 3 of this Article. The

Seller license extends to the domestic (including Canada) subsidiaries and affiliates, if any, within the corporate structure of which Seller is a party and includes the right to grant licenses of the same scope to the extent that Seller was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the U. S. Government, except when transferred to the successor or that part of the business to which the invention pertains.

5.2. The Seller domestic license may be revoked or modified by the U.S. Government 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, provided that such revocation or modification shall not take place less than three (3) years after the end of the term of the contract. This license shall not be revoked in that field of use or the geographical areas in which Seller 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 the U.S. Government to the extent Seller, its licensees, or the subsidiaries or affiliates have failed to achieve practical application in that foreign country.

5.3 Before revocation or modification of the license, the U.S. Government shall furnish Seller a written notice of its intention to revoke or modify the license, and Seller 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.

6. Action to Protect the Government's Interest

6.1. Seller agrees to execute or to have executed and promptly deliver to Buyer and to the Agreements Officer all instruments necessary to (i) establish or confirm the rights the U.S. Government has throughout the world in those subject inventions to which Seller elects to retain title, and (ii) convey title to the U.S. Government when requested under paragraph 4 of this Article and to enable the U.S. Government to obtain patent protection throughout the world in that subject invention.

6.2. Seller agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by Seller each subject invention made under this contract in order that Seller can comply with the disclosure provisions of paragraph 3 of this Article. Seller shall instruct employees, 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.

6.3. Seller shall notify Buyer and the U.S. Government 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.

6.4. Seller 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 U.S Government support under Agreement No. N00421-01-3-0098 awarded by the Naval Air Systems Command. The U.S. Government has certain rights in the invention."

7. Lower Tier Agreements

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

8. Reporting on Utilization of Subject Inventions

Seller agrees to submit to Buyer and the Agreements Officer during the term of the contract, an annual report on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by Seller 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 Seller, and such other data and information as the agency may reasonably specify. Consistent with 35 U.S.C. 202(c)(5), Buyer agrees it shall not disclose such information to persons outside of Buyer or the Government without permission of Seller.

9. Preference for American Industry

Notwithstanding any other provision of this clause, Seller 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 the U.S. Government upon a showing by Seller 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.

10. March-in Rights

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

10.1. Such action is necessary because Seller or assignee has not taken effective steps, consistent with the intent of this contract, to achieve practical application of the subject invention;

10.2. Such action is necessary to alleviate health or safety needs, which are not reasonably satisfied by Seller, assignee, or their licensees;

10.3 Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by Seller, assignee, or licensees; or

10. 4. Such action is necessary because the agreement required by paragraph 10 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.

OTHER INTELLECTUAL PROPERTY RIGHTS (from Article 11 of the prime contract)

1. Definitions

1.1. "Government Purpose Rights" (GPR) means rights to use, modify, reproduce, release, perform, display, or disclose technical data within the U.S. Government without restriction; and release or disclose technical data outside the U.S. Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for U.S. Government purposes.

1.2. "Unlimited rights" means rights to use, modify, reproduce, perform, display, release, or disclose technical data or, in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

1.3. "Limited Rights" means the right to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the government. The government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the government, or authorize the technical data to be used by another party.

1.4. "Restricted Rights" means the government shall have restricted rights to use, modify, reproduce release, perform, display, or disclose the technical data or noncommercial computer software required to be delivered or otherwise provided to the government under this contract that were developed exclusively at private expense.

1.5. "Data" means recorded information, regardless of form or method of recording, which includes but is not limited to, technical data, software, trade secrets, and mask works. The term does not include financial, administrative, cost, pricing or management information.

1.6. "Reported Data" means Data that is contained in Special Technical Reports that are required to be submitted or otherwise provided to Buyer as set forth elsewhere in this contract.

1.7. "Background Data" means any data developed prior to the performance of this contract or outside the scope of work performed under this contract.

1.8. "Commercial Computer Software" means any computer program, computer data base, or documentation thereof, that has been developed at private expense and either is a trade secret, is commercial or financial and confidential or privileged, or is published and copyrighted.

2. Allocation of Principal Rights

2.1. The Parties agree to use their best efforts to reduce to practical application the materials and processes developed under this contract.

2.2. Seller agrees to retain and maintain in good condition until three (3) years after completion or termination of this contract, all Data generated under this contract. Seller agrees, upon written request from Buyer and the U.S. Government, to deliver at no additional cost to Buyer, all Data pertaining to its work and generated under this contract within sixty (60) calendar days from the date of the written request.

2.3. Seller agrees that, with respect to Data generated under this contract, the U.S. Government has the right to require Seller to deliver all such Data to Buyer or the U.S. Government in accordance with its reasonable directions if the U.S. Government determines that:

2.3.1. Such action is necessary because Seller or assignee has not taken effective steps, consistent with the intent of this contract, to achieve practical application of the technology developed during the performance of this contract;

2.3.2 Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by Seller, assignee, or their licensees; or

2.3.3 Such action is necessary to meet requirements for public use and such requirements are not reasonable satisfied by Seller, assignee, or licensees.

3. Marking of Data

Any Data delivered under this contract shall be marked with the following legend:

"Use, duplication, or disclosure is subject to the restrictions as stated in Agreement No. N00421-01-3-0098 between the U.S. Government and BOEING.

Restriction on Disclosure or Use of Data. Distribution authorized to U.S. Government agencies only to protect information not owned by the U.S. Government and protected by a Seller's "limited rights" statement, or received with the understanding that it not be routinely transmitted outside the U.S. Government. Other requests for this document shall be

referred to NAVAIR Technical Information Officer."

4. Lower Tier Agreements

Seller shall include this Article, suitably modified to identify the Parties, and to preserve the U.S. Government's rights, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

FOREIGN ACCESS TO TECHNOLOGY (from Article 12 of the prime contract)

1. Definitions

1.1. "Foreign Firm or Institution" means a firm or institution organized or existing under the laws of a country other than the United States, its territories, or possessions. The term includes, for purposes of this contract, any agency or instrumentality of a foreign government; and firms, institutions or business organizations, which are owned or substantially controlled by foreign governments, firms, institutions, or individuals.

1.2. "Know-How" means all information including, but not limited to discoveries, formulas, materials, inventions, processes, ideas, approaches, concepts, techniques, methods, software, programs, documentation, procedures, firmware, hardware, technical data, specifications, devices, apparatus and machines.

1.3 "Technology" means discoveries, innovations, Know-How and inventions, whether patentable or not, including computer software, recognized under U.S. law as intellectual creations to which rights of ownership accrue, including, but not limited to, patents, trade secrets, maskworks, and copyrights developed under this contract.

2. General

The Parties agree that research findings and technology developments arising under this contract may constitute a significant enhancement to the national defense, and to the economic vitality of the United States. Accordingly, access to important technology developments under this contract by Foreign Firms or Institutions must be carefully controlled. The controls contemplated in this Article are in addition to, and are not intended to change or supersede, the provisions of the International Traffic in Arms Regulation (22 CFR pt. 121 et seq.), the DoD Industrial Security Regulation (DoD 5220.22-R) and the Department of Commerce Export Regulation (15 CFR pt. 770 et seq.)

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

3.1. In order to promote the national security interests of the United States and to effectuate the policies that underlie the regulations cited above, the procedures stated in subparagraphs 3.2, 3.3, and 3.4 below shall apply to any transfer of Technology. For purposes of this paragraph, a transfer includes a sale of the company, and sales or licensing of Technology. Transfers do not include:

3.1.1 sales of products or components, or

3.1.2 licenses of software or documentation related to sales of products or components.

3.2. Seller shall provide timely notice to Buyer and the U.S. Government of any proposed transfers from Seller of Technology developed uniquely under this contract to Foreign Firms or Institutions. If the U.S. Government, without unreasonable delay, determines that the transfer may have adverse consequences to the national security interests of the United States, Buyer, Seller, its vendors, and NAST shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer but which provide substantially equivalent benefits to Seller.

3.3 In any event, Seller shall provide written notice to Buyer and the NAST Program Manager and NAST Agreements Officer of any proposed transfer of data or technology

uniquely developed under this contract to a foreign firm or institution at least sixty (60) calendar days prior to the proposed date of transfer. Such notice shall cite this Article and shall state specifically what is to be transferred and the general terms of the transfer. Within thirty (30) calendar days of receipt of Seller written notification, the NAST Agreements Officer shall advise Seller whether it consents to the proposed transfer. In cases where NAST does not concur or sixty (60) calendar days after receipt and NAST provides no decision, Seller may utilize the procedures under the Disputes clause of this contract. No transfer shall take place until a decision is rendered.

3.4 In the event a transfer of Technology, developed under this contract, to Foreign Firms or Institutions which has NOT been approved by the U.S. Government takes place, Seller shall (a) refund to Buyer funds paid for the development of the Technology and (b) the U.S. Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced on behalf of the United States the Technology throughout the world for the U.S. Government and any and all other purposes, particularly to effectuate the intent of this contract. Upon request of the U.S. Government, Seller shall provide written confirmation of such licenses.

4. Lower Tier Agreements

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