

Common Terms and Conditions Guide
Section 5 – Government Contract Requirements

Clause Number: 5080
Effective: 06/18/2003
Page: 1 of 4

F33615-03-2-2306

Aircraft Electric Power System – Prognostics Health Management

The following contract clauses are incorporated in this contract and apply to the extent indicated.

- (a) **Cost Principles**
The cost principles in 48 CFR 31 and 48 CFR 231 effective on April 9, 2003 apply to this contract.
- (b) **Claims, Disputes and Appeals.**
- (1) **General.** Parties shall communicate with one another in good faith and in a timely and cooperative manner when raising issues under this clause. Department of Defense (DoD) policy is to resolve issues through discussions and mutual agreement at the agreements officer's level prior to submission of a claim.
- (2) **Dispute Resolution Process.** Any disagreement, claim or dispute between Buyer and Seller concerning questions of fact or law arising from or in connection with this agreement may be raised only under this clause. Failing resolution by mutual agreement, Seller shall submit to Buyer the written, relevant facts, identifying unresolved issues and specifying clarification or remedy sought. Within 30 days of receipt of the written claim or issue in dispute, Buyer shall prepare a written decision on the issue (including the basis for the decision); or notify Seller of a specific date when she/he will render a written decision, including reason for delaying the decision
- (c) **Data Rights/Allocation of Principle Rights.** Ownership rights to data generated under this order shall vest in Seller, who agrees that Seller intends to reduce to practical application items, components and processes developed under this agreement. Seller agrees to retain and maintain in good condition until five years after completion or termination of Buyer's prime agreement all data necessary to achieve practical application; in the event that the Government exercises its rights under the clause "Inventions" set out below, Seller agrees, upon written request from Buyer, to deliver at no additional cost to Buyer all data necessary to achieve practical application within 45 days from date of written request, and that the Government shall have unlimited rights to that delivered data. Any data delivered under this agreement shall be marked with the following legend:

Government Purpose Rights

Agreement No:

Seller's Name:

Seller's Address:

The Government may use, modify, reproduce, release, perform, display or disclose these data within the Government without restriction, and may release or disclose outside the Government and authorize persons to whom such release or disclosure has been made to use, modify, reproduce, release, perform, display or disclose

Common Terms and Conditions Guide
Section 5 – Government Contract Requirements

Clause Number: 5080
Effective: 06/18/2003
Page: 2 of 4

that data for United States Government purposes, including competitive procurement. Any trade secrets and commercial or financial information that Seller wishes to protect from release under Freedom of Information Act requirements must be marked with a legend identifying it as privileged or confidential information.

- (d) **Inventions – Incorporated by Reference.** The clause entitled “Patent Rights (Small Business Firms & Nonprofit Organizations (37 CFR 401.14)” is hereby incorporated by reference and is modified as follows: replace “contractor” with “Seller”; replace the words “agency”, “Federal Agency”, and “funding Federal Agency” with “Buyer”; delete paragraphs (g)(2), (g)(3), and the words “to be performed by a small business firm or domestic nonprofit organization” from paragraph (g)(1). Seller shall file Invention (Patent) reports as of the close of each performance year and at the end of this contract; annual reports are due 30 days after the end of each year of performance, and final reports are due 45 days after the expiration of the final performance period. Seller shall use DD Form 882 to file an inventions report; negative reports are required.
- (e) **Disclosure of Information.** Seller shall not release to anyone outside Seller’s organization any unclassified information, regardless of medium, pertaining to this contract or any part thereof, unless: the Government through Buyer has given prior written approval; or the information is otherwise in the public domain before the date of release. Requests for approval shall identify the specific information to be release, the medium to be used, and the purpose for the release; Seller shall submit its request to Buyer at least 60 days before the proposed date for release.
- (f) **Foreign Access to Technology.** This clause applies only if this contract requires experimental, developmental, or research work.
 - (1) **Definitions**
 - (A) "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 agreement, any agency or instrumentality of a foreign government, and firms, institutions, or business organizations that are owned or substantially controlled by foreign governments, firms, institutions, or individuals.
 - (B) "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.
 - (C) "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, mask works, and copyrights developed under this agreement.
 - (2) **General.** Seller acknowledges that research findings and technology developments in aircraft electric power system prognostics health

Common Terms and Conditions Guide
Section 5 – Government Contract Requirements

Clause Number: 5080
Effective: 06/18/2003
Page: 3 of 4

management technology 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 clause are in addition to, and are not intended to change or supersede, the provisions of the International Traffic in Arms Regulation (22 CFR pt. 120 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.
- (A) 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)(B), (3)(C), and (3)(D) 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:
- (i) sales of products or components, or
 - (ii) licenses of software or documentation related to sales of products or components, or
 - (iii) transfer to foreign subsidiaries of Seller for purposes related to this agreement, or
 - (iv) transfer which provides access to technology to a foreign firm or institution which is an approved source of supply or source for the conduct of research under this agreement provided that such transfer shall be limited to that necessary to allow the firm or institution to perform its approved role under this agreement.
- (B) Seller shall provide timely notice to the Government of any proposed transfer from Seller of technology developed under this contract to foreign firms or institutions. If the Government determines that the transfer may have adverse consequences to the national security interests of the United States, Seller, its subcontractors, and the Government 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.
- (C) In any event, Seller shall provide written notice to the agreements officer and Government program manager, through Buyer's Authorized Procurement Representative, of any proposed transfer to a foreign firm or institution at least 45 days prior to the proposed date of transfer. Such notice shall cite this clause and shall state specifically what is to be transferred and the general terms of the transfer. Within 30 days of receipt of Seller's written notification, the agreements officer shall advise Seller whether he or she consents to the proposed transfer. In cases where the Government does not concur or 60 days after receipt and the Government provides no decision, Seller may utilize the procedures under the clause entitled Claims, Disputes and Appeals. No transfer shall take place until a decision is rendered.

Common Terms and Conditions Guide
Section 5 – Government Contract Requirements

Clause Number: 5080
Effective: 06/18/2003
Page: 4 of 4

- (D) Except as provided in subparagraph (3)(A) above and in the event the transfer of technology to foreign firms or institutions is not approved by the Government, but the transfer is made nonetheless, Seller shall (a) refund to Buyer the funds paid for the development of the technology and (b) negotiate a license with Buyer to the technology under terms that are reasonable under the circumstances.
- (4) Lower Tier Agreements. Seller shall include this clause, suitably modified to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, development, or research work.
- (g) Equal Employment Opportunity. Seller shall comply with E.O. 11246 (3 CFR 1964-1965 Comp., p.339), "Equal Employment Opportunity," as amended by E.O. 11375 (3 CFR, 196601970 Comp., p. 684), "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."