

T-AMS DOTC-16-01

RAYTHEON MISSILE SYSTEMS PURCHASE ORDER ATTACHMENT

This attachment is designed for use with awards under DOTC-16-01

The Buyer's Purchase Order is revised to include the following additional DOTC provisions. If any of the following clauses do not apply to this Purchase Order, such clauses are considered to be self-deleting.

Article XI. DATA RIGHTS AND COPYRIGHTS

Section 11.01 General

Rights in technical data under this agreement shall be determined in accordance with the provisions of DFARS Part 227, DFARS 252.227-7013, Rights in Technical Data -- Noncommercial Items and related clauses in DFARS Part 252.227. With respect to both unlimited and Government purpose license rights provided for in those regulations, the Government acknowledges and agrees that it shall obtain such rights pursuant to this agreement only to the extent that it's financial contributions toward the development of the technical data is equal to or greater than 50% of the total costs of such development.

The Ordnance Technology Initiative Recipient reserves the right to protect by copyright original works developed under this Agreement and any subsequent Ordnance Technology Initiative Agreement. All such copyrights will be in the name of the individual Ordnance Technology Initiative Recipient. The NAC member organization grants to the U.S. Government a non-exclusive, non-transferable, royalty-free, fully paid-up license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, for Governmental purposes, any copyrighted materials developed under this Agreement, and to authorize others to do so.

In the event Data is exchanged with a notice indicating that the Data is protected under copyright as a published, copyrighted work and it is also indicated on the Data that such Data existed prior to, or was produced outside of this Agreement or any subsequent Ordnance Technology Initiative Agreement, the Government, the CMF, or NAC member organization receiving the Data and others acting on its behalf may reproduce, distribute, and prepare derivative works for the purpose of carrying out that its responsibilities under this Agreement or any subsequent Ordnance Technology Initiative Agreement between the CMF and NAC member organization.

The NAC member organization is responsible for affixing appropriate markings indicating the rights of the Government on all data and technical data delivered under Ordnance Technology Initiative Agreements.

Section 11.02 Data First Produced by the Government Section

As to Data first produced by the Government in carrying out the Government's responsibilities under the Ordnance Technology Initiative Agreements and which Data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if obtained from an Ordnance Technology Initiative Recipient, such Data will, to the extent permitted by law, be appropriately marked with a suitable notice or legend and maintained in confidence for a period of five (5) years after the development of the information, with the express understanding that during the aforesaid period such Data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes only.

Section 11.03 Government Prior Technology of Article XI Data Rights and Copyrights of the Agreement was amended via Modification No. 04 executed 28 November 2012

In the event it is necessary for the Government to furnish an Ordnance Technology Initiative Recipient with Data which existed prior to, or was produced outside of this Agreement or a subsequent Ordnance Technology Initiative Agreement, and such Data is so identified with a suitable notice or legend, the Data will be maintained

in confidence and disclosed and used by the NAC member organization only for the purpose of carrying out the Ordnance Technology Initiative Recipient's responsibilities under the Ordnance Technology Initiative Agreement. Data protection will include proprietary markings and handling, and the signing of non-disclosure agreement by the Ordnance Technology Initiative and/or their subcontractors. Upon completion of activities under the applicable Ordnance Technology Initiative Agreement, such Data will be disposed of as requested by the Government.

Section 11.04 Consortium Member Organization's Prior Technology

In the event it is necessary for an Ordnance Technology Initiative Recipient to furnish the Government with Data which existed prior to, or was produced outside of this Agreement or a subsequent Ordnance Technology Initiative Agreement, and such Data embodies trade secrets or comprises commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence and disclosed and used by the Government and such Government Contractors or contract employees that the Government may hire on a temporary or periodic basis only for the purpose of carrying out the Government's responsibilities under this Agreement. Data protection will include proprietary markings and handling, and the signing of non-disclosure agreements by such Government Contractors or contract employees. With respect to the use of such technical data or software by other NAC member organizations, the Ordnance Technology Initiative

Recipient with proprietary rights may offer to license such rights for use exclusively in the performance of Ordnance Technology Initiative Agreements conducted under other Ordnance Technology Initiative Agreements by other Consortium member organizations, on reasonable terms and conditions under a non-exclusive license without the right to sub-license. The Ordnance Technology Initiative Recipient furnishing Data which existed prior to, or was produced outside of this Agreement or subsequent Ordnance Technology Base Agreements, has the right to license such Data to other NAC member organizations or to entities not a party to NAC for a fee and/or royalty payments as determined by the Ordnance Technology Initiative Recipient furnishing such Data. An Ordnance Technology Initiative Recipient shall not be obligated to provide Data that existed prior to, or was developed outside of this Agreement to other NAC member organization or the Government. Upon completion of activities under the applicable Ordnance Technology Initiative Agreements, such Data will be disposed of as requested by the Ordnance Technology Initiative Recipient.

Section 11.05 Oral and Visual Information

If information which an Ordnance Technology Initiative Recipient considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is disclosed orally or visually to the Government, such information must be reduced to tangible, recorded form (i.e., converted into Data as defined herein), identified and marked with a suitable notice or legend, and furnished to the Government and CMF within 10 calendar days after such oral or visual disclosure, or the Government shall have no duty to limit or restrict, and shall not incur any liability for, any disclosure and use of such information.

Section 11.06 Disclaimer of Liability

Notwithstanding the above, the Government and the CMF shall not be restricted in, nor incur any liability for, the disclosure and use of:

(a) Data not identified with a suitable notice or legend as set forth in Section 11.01 herein; nor

(b) Information contained in any Data for which disclosure and use is restricted under Section 11.01, if such information is or becomes generally known without breach of the above, is known to or is generated by the Government or CMF independently of carrying out responsibilities under this Agreement or subsequent Ordnance Technology Initiative Agreements, is rightfully received from a third party without restriction, or is included in Data which the member organizations have, or are required to furnish to the Government without restriction on disclosure and use.

Section 11.07 Marking of Data

Any Data delivered under this Agreement, by the Government, CMF or Ordnance Technology Initiative Recipient, shall be marked with a suitable notice or legend.

Section 11.08 Lower Tier Agreements

The NAC member organization shall include this Article suitably modified to identify the parties, in all subcontracts, lower tier agreements, regardless of tier, for experimental, development, or research work performed under the Ordnance Technology Initiative Agreements, pursuant to this Agreement.

Section 11.09 Other Instances

Notwithstanding Paragraphs in this Article, differing rights in data may be negotiated between the Government through the CMF and the Ordnance Technology Initiative Recipient to each individual Ordnance Technology Initiative Agreement on a case by case basis.

Article XII. FOREIGN ACCESS TO TECHNOLOGY AND EXPORT CONTROL

Article XII Foreign Access to Technology and Export Control of the Agreement was replaced in its entirety with Article XII Export via Modification No. 04 executed 28 November 2012

Article XII. EXPORT

Section 12.01 Export Control

(a) Export Compliance.

Each Party agrees to comply with U.S. Export regulations including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. § 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. § 120 et seq.; and the Export Administration Act, 50 U.S.C. app. § 2401-2420. Each party is responsible for obtaining from the Government export licenses or other authorizations/approvals, if required, for information or materials provided from one party to another under this Agreement. Accordingly, the Parties shall not export, directly, or indirectly, any products and/or technology, Confidential Information, Trade Secrets, or Classified and Unclassified Technical Data in violation of any U.S. Export laws or regulations.

(b) Flow down

The NAC Member Organization shall include this Article, suitably modified, to identify all Parties, in all Ordnance Technology Initiative Agreements or lower tier agreements. This Article shall, in turn, be included in all sub-tier subcontracts or other forms of lower tier agreements, regardless of tier.