

SECTION H
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SECTION H

SPECIAL CONTRACT REQUIREMENTS

H1 Contract Type.

This is a firm-fixed price, indefinite-delivery, indefinite-quantity type contract for hardware, software, and data, and it is fixed-price with economic price adjustments for hardware maintenance, training, and Contractor technical services.

H2 Price Guarantee.

The prices contained in this contract shall apply for the entire term of the contract including any contract renewals under the contract renewal options.

H3 Replacement Parts.

The Contractor guarantees that replacement parts for all items which are the subject of this contract shall be available for the entire term of the contract including any contract renewals under the contract renewal options.

H4 Replacements, Alterations, and Attachments.

4.1 The Government may make alterations or install attachments to equipment procured and put in place under this contract. The Contractor shall be provided an advance notice of contemplated alterations and attachments. The Contractor shall respond to the Contracting Officer within 15 calendar days of receipt of the advance notice identifying impacts to the existing system/components.

4.2 Any equitable adjustment in price may be made for any increases or decreases in maintenance, parts, diagnostic software or manuals.

H5 Contractor-furnished Software.

5.1 At any time during the performance of this contract the Government may require the Contractor to remedy any failure of the software to comply with the requirements of this contract, by correction or replacement of the defective software. In the event that a need for correction of defective software is identified, corrective action shall; at the Government's option, include the distribution and installation of the replacement software at no additional charge to the Government. The underlying obligation to provide a correction to the software itself at no additional charge to the Government shall be determined separately according to the basis for the requested corrective action (e.g., warranty, scheduled software support, latent defect, etc.).

5.2 The Contractor agrees to make available all updates and/or upgrades (to include new releases or versions) to the software and related CDRL's currently provided under this contract, when they become available from the original software manufacturer (OSM). Once the updated and/or upgraded software is accepted by the Government (see subpara H5.4), the Contractor shall:

5.2.1. For software covered by warranty, maintained by software support, or made available to other customers without charge; make the updates and/or upgrades available to the government without any additional charges. In addition, the Contractor further agrees to provide the updated and/or upgraded software for all subsequent orders of this software at a price not to exceed the existing contract price to all Government users.

5.2.2. For software not covered by one or more of the conditions mentioned in subpara 5.2.1. above, offer the updated and/or upgraded software to current and subsequent users at a discount commensurate with the discount given off the OSM commercial or GSA Schedule Price List (SPL) provided in the basic contract for the original product. The Contractor must supply current commercial or GSA SPL prices when notifying the Government of product availability prior to the Government's acceptance set forth in subpara H5.4.

5.3 Reserved.

5.4 The Government may at its option, elect to accept later updates or upgrades of the software. If the Government elects to accept an update or an upgrade, support services for the newly installed release shall be provided. Support services for previous releases shall be continued in the same manner as that provided to commercial buyers.

5.5 The Contractor shall maintain CAI and VAI software to be consistent with other Contractor furnished software updates/upgrades at no additional cost to the Government.

H6 Term of Contract.

The initial term of this contract shall begin on the date of award of the contract and end on 93 SEP 30. Thereafter the contract shall be renewable at the prices stated elsewhere in the contract, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor by the first day each fiscal year of the Government as provided in FAR Clause 52.217-9 "Option to Extend the Term of the Contract" incorporated by reference in Section I. The total contract life, including all options, shall not extend beyond May 31, 2002 for hardware and software and May 31, 2002 for hardware maintenance, software support, training, data, and Contractor technical services.

H7 Insurance.

7.1 Before commencing work under this contract, the Contractor shall certify to the Contracting Officer in writing that the required insurance has been obtained.

7.2 For purposes of the clause of this contract entitled "Insurance-work on a Government Installation" (FAR 52.228-5) in Section I hereof, the minimum coverage required during the term of this contract shall be as described below.

7.2.1 Workers' Compensation and Employer's Liability. Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases

are not compensable under those statutes, they shall be covered under the employer's liability section of the Contractor's insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

7.2.2 General Liability. The Contractor shall carry bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.

7.2.3 Automobile Liability. The Contractor shall carry automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing under the Contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

H8 Programming Aids.

The Contractor shall make available to the Government without charge any other programming aids for the type of component supplied under this contract which the manufacturer has announced or which the manufacturer may make available in the future for general use, as furnished to other customers without charge. The programming aids shall be delivered with the associated component.

H9 Contractor-sponsored Modifications.

9.1 The Government shall have the option to have all Contractor, OEM, or OSM sponsored Engineering Change Authorizations (ECAs), which are available at the time of installation or are later offered, incorporated into the components covered by this contract.

9.2 The Contractor shall notify the Government of all such changes prior to commencing any modification. All Contractor/OEM/OSM sponsored modifications, except changes required to correct safety hazards, which may impact on system performance or the performance of any attached devices not supplied under this contract, shall be submitted for approval to the Government and the Contractor shall not commence the modification unless and until, the Government grants approval. In the event a modification is made to correct a safety hazard and such a modification results in degraded system performance, the Contractor shall provide either any additional equipment or software necessary to bring the system up to its former performance level at no cost to the Government or at the Government's option, otherwise compensate the Government for loss of system performance capability.

9.3 The Government will review Contractor-sponsored modification(s) within a reasonable period of time after being notified by the Contractor that the modification is ready to be made.

9.4 All equipment and component modifications, which are approved by the Government shall be accomplished at the site unless otherwise directed by the Contracting Officer.

9.5 Reserved.

9.6 Any upgrades to the equipment and related CDRL's currently provided under the contract shall be offered to the Government when they become available from the original equipment manufacturer (OEM).

H11 Maintenance.

11.1 Maintenance Plan. The Contractor shall perform maintenance and the Government will assist the Contractor in accordance with the Contractor's Maintenance Plan (see Attachment 11).

11.2 Responsibilities of the Contractor.

11.2.1 The Contractor shall be responsible for total system maintenance including preventive maintenance and any maintenance assistance performed by Government personnel under the technical direction of the Contractor.

11.2.2 The time for preventive maintenance shall be arranged with the QAE or agency equivalent or a designated representative. Preventive maintenance which exceeds its scheduled duration shall accrue toward downtime; otherwise, preventive maintenance shall not accrue toward either productive time or downtime.

11.2.3 The Contractor shall provide all supplies, parts, tools, and test equipment required for maintenance of the system/components.

11.3 Responsibilities of the Government.

11.3.1 Government personnel will neither perform maintenance nor attempt repairs to equipment while the system is being maintained by the Contractor; however, Government computer operator personnel will be available on a limited basis to assist the Contractor by performing simple tasks such as connecting or replacing plug-mounted equipment under the Contractor's technical direction as identified in the Contractor's Maintenance Plan (see Attachment 11).

11.3.2 The Government will provide the Contractor access to the failed component(s) and any other components needed to perform the required preventive or remedial maintenance service.

11.4 Government Selection of a Maintenance Coverage. The Government will select a maintenance coverage by designating the coverage in a delivery order. The Government will have the option to change maintenance coverage by giving the Contractor 30 calendar days notice. Any change in maintenance coverages shall not be considered a partial termination of the contract for the convenience of the Government, and will not authorize any claim for an equitable adjustment. If the contract is renewed, the same type of maintenance service will be continued unless notice has been given to change it.

11.5 Maintenance Charges.

11.5.1 The maintenance prices include the cost of labor, parts, and transportation. Hourly maintenance charges are on a time-on-site basis. Should it become necessary for the Contractor to send the equipment to its facility for repair or maintenance, the Contractor shall be responsible for the equipment including

but not limited to, any costs to transport the same from the time it leaves the Government site until it is reinstalled at the Government location in proper operating condition.

11.5.2 Maintenance service shall not include electrical work external to Contractor-furnished equipment, painting or refinishing, and adding or removing accessories, attachments or other devices. Only new standard parts or parts of equal quality shall be used for repair. The faulty parts which have been replaced shall become the property of the Contractor.

11.5.3 Maintenance prices shall include all toll charges associated with the use of the telephone to assist in the repair of malfunctioned components.

11.5.4 There shall be no additional charges for:

- a. Replacement parts, unless such parts are required due to fault or negligence of the Government;
- b. Preventive maintenance, regardless of when performed;
- c. Time spent by the Contractor's maintenance personnel after arrival at the Government's installation while not engaged in productive maintenance activities but waiting for the arrival of additional Contractor maintenance personnel and/or parts.
- d. Remedial maintenance initiated (via a bonafide notification attempt by the Government in accordance with paragraph C40.1.4) but not completed within the PPM.

11.5.5 For each call, the maximum charge for per call hourly maintenance (PCPPM and OPPM) shall not exceed 8 hours.

11.5.6 When items are mailed back for repair in accordance with paragraph C40.6, the Government will be responsible for the cost of transporting the item to the Contractor's facility. Shipment costs of repaired items mailed back to the Government shall be borne by the Contractor.

11.5.7 When optional extended coverage not included under the warranty is required for on-call principal period of maintenance during the warranty period, only the surcharge shall be billed.

11.6 Liquidated Damages for Non-availability of Core Components due to Remedial Maintenance.

11.6.1 Exceptions. Liquidated damages shall not be assessed to the Contractor during those periods when the Contractor is denied access to the core components (See Table C-2).

11.6.2 Time-to-repair. Remedial maintenance shall be performed upon notification that a component is inoperative. The component(s) shall be repaired and returned to the Government in proper operating condition within the time(s) specified in paragraph C40. If any core component is not repaired in the time frames set forth in paragraph C40, the Contractor shall, in place of actual damages, pay to the Government as fixed, agreed, and liquidated damages, the sum of \$400.00 per hour or portion thereof. (Example: If a disk drive (CONUS) is not repaired within 4 hours, then the Contractor shall be charged \$400.00 for each hour beyond the times to repair listed in paragraph C40 that the disk drive is not fully operational.)

11.6.3 Liquidated Damages Assessment. Liquidated damages shall be assessed only during the periods of ordered OCPPM. Liquidated damages shall not be assessed during the periods of ordered OPPM.

11.7 Credits.

11.7.1 Exceptions. No credit shall accrue to the Government during those periods when the Contractor is denied access to the system/components.

11.7.2 Time-to-repair for Other Than Core Components. Remedial maintenance shall be performed upon notification that a component is inoperative. The component shall be repaired and returned to the Government in proper operating condition within the times) specified in paragraph C40.

11.7.2.1 When OCPPM is ordered, failure to comply with the time-to-repair requirement in paragraph C40 shall result in maintenance credits on the basis of 1/30 of the component's total monthly charge for each day the component is inoperative, and for any other component that is not usable as a result thereof. Time required to reconstruct data lost as a result of a component malfunction shall be considered downtime. Maintenance credits for inoperative periods less than whole operational days shall be prorated hourly. Maintenance credits shall be computed from the time the Government makes a bona fide attempt to notify the Contractor that a component is inoperative.

11.7.2.2 When per call maintenance (PCPPM or OPPM) is ordered, failure to comply with the time-to-repair requirement at paragraph C40 shall result in credits on the basis of the applicable hourly rate for each hour the component or any other component is inoperative. Time required to reconstruct data lost as a result of a component malfunction shall be considered downtime. Maintenance credits for inoperative periods less than one hour shall be pro-rated at 1/4 the applicable hourly rate for each 1/4 of an hour or part thereof. (See paragraph H19.4.) Maintenance credits shall be computed from the time the Government notifies the Contractor that a component is inoperative.

11.7.3 Component Effectiveness Level (CEL) for Other Than Core Components. The Contractor shall grant a maintenance credit to the Government for any component which fails to perform in accordance with paragraph C40. The maintenance credit shall be a percentage of the total monthly charge. The percentage is determined by subtracting the actual CEL for the month from 98%. (Examples: If the required CEL is 98%, and the actual CEL is 95% the maintenance credit would be 3% of the total monthly charge. If, however, the actual CEL is 98% or higher, there will be no credit due under this paragraph.) For other than core components, monthly credits for each component shall be the higher of the component time-to-repair credits or the CEL credit. In the event that a component is inoperative due to component failure, and the total number of hours of down time exceeds 10% of the total operational use time for two consecutive calendar months, the Government reserves the right to require the Contractor to replace the component within 30 days.

11.7.4 Absence Credits. A credit shall be granted to the Government due to the absence of Contractor on-site system analyst and engineering support personnel during the eight hour shift (excluding the meal period); provided, however, that such absence is not due to causes beyond the control and without the fault or negligence of the Contractor. The amount of the credit for each hour of absence shall be the applicable hourly rate for each hour of absence.

11.8 Malfunction Reports. The Contractor shall furnish a signed ADPE Maintenance Record, AF Form 597 or equivalent to the QAE or designated representative upon completion of each maintenance service (remedial call or preventive maintenance). The Contractor shall complete Blocks 16, 17, 26-31, and 33 of AF Form 597 (see Attachment 2). The QAE or designated Government representative will countersign the report to certify that the services were rendered.

H12 Per-call Principal Period of Maintenance (PCPPM).

12.1 During the period of the contract, the Contractor shall furnish PCPPM in accordance with the provisions listed below.

12.2 The Government agrees to issue written delivery orders, either individual or blanket, to cover each call for PCPPM. In an emergency, oral orders are acceptable, and must be confirmed by a written delivery order within three working days.

12.3 There shall be no separate charge for replacement parts, except when due to the fault or negligence of the Government.

12.4 The Government user may convert to OCPPM service under the provisions of paragraph H11.4. However, when components are converted from the PCPPM to OCPPM service, a component acceptability inspection may be required. The Government will not be charged for this inspection; however, any repairs required to bring the component(s) to a level of acceptability shall be subject to the PCPPM rate.

12.5 An incident is defined as a user request for service at a particular site, and subsequent Contractor visit and repair of components procured under this contract. The minimum charge shall not apply to more than one service incident per calendar day.

12.6 If a service incident commences on one day and extends into the following day, the entire incident will be considered to have occurred on the second day and the minimum charge will be applied to the second day.

H13 Hardware Warranty.

13.1 The Contractor shall furnish, without charge, equipment, maintenance service, and all parts for a period of 14 months for CONUS sites and 15 months for OCONUS sites beginning on the 1st day of the successful acceptance period, as specified in paragraph E2.1. In the event that the Government requests, in its delivery order, an acceptance test, and prepares for the acceptance test as required by the contract, the hardware warranty is for a period of 12 months (CONUS and OCONUS) beginning on the 1st day of the successful acceptance period, as specified in paragraph E2.2. Maintenance and parts required as a result of fault or negligence of the Government will be at the Government's expense. The type of maintenance offered during this period will be 9-hour PPM Monday through Friday, 0800-1700.

13.2 All parts replaced during the warranty period become the property of the Contractor.

13.3 Prior to the expiration of the warranty period, whenever equipment is shipped for replacement purposes, the Contractor shall bear all costs, including, but not limited to, costs of packing,

transportation, rigging, drayage, and insurance unless such replacement was due to the fault or negligence of the Government. The original warranty shall apply to all replacement equipment beginning on the first day after acceptance, in addition all replacement equipment will be subject to the warranties

H15.

- 13.4 For the purposes of determining when the first day of warranty and maintenance for payment Purposes, the first day of the successful performance period is defined as follows:

13.4.1 When the first day of the successful performance period is between the first and including the fifteenth of the month, the start day for warranty or maintenance is the first day of the month.

13.4.2 When the first day of the successful performance period is between the sixteenth (including the sixteenth) and the end of the month, the start date for warranty or maintenance is the first day of the succeeding month.

H14 Effective Date of Chargeable Maintenance.

The effective date of chargeable maintenance service shall not be prior to the expiration of the warranty period.

H15 Warranty of Repair.

The Contractor guarantees to repair at no charge any component malfunction which reoccurs within 90 calendar days of the initial repair.

H16 Incorporation of Subcontracting Plan.

The PRC Inc. subcontracting plan, dated 17 Sep 92, in support of Super-minicomputer, and submitted in accordance with FAR 52.219-9 (Incorporated in Section I) is hereby approved and incorporated herein by reference.

H17 Training.

17.1 Training Support.

17.1.1 When training is conducted at a Government site, Government-furnished facilities and equipment will be utilized including classrooms, overhead projectors, screens, chalkboards, and the use of equipment installed under this contract when hands-on training is required.

17.1.2 When training is conducted at the Contractor's facility, Contractor-furnished facilities and equipment shall be utilized. The Contractor shall provide adequately lighted and ventilated classrooms, laboratories, and shops. Classrooms shall be free from excess noise which may interfere with instruction. Each student shall be provided adequate desk space for handling schematics and taking notes. Janitorial service for these areas is a Contractor responsibility.

17.1.3 The Contractor shall be responsible for:

- a. Furnishing all training manuals, schematics, drawings, charts, transparencies, etc., required to conduct training;
- b. Furnishing all equipment necessary to effectively conduct the training program except equipment that is specifically identified elsewhere in the contract as being furnished by the Government;
- c. Utilization of appropriate safety measures.

17.1.4 Formal training shall be conducted approximately 8 hours per day (excluding weekends and Federal holidays). Instructors and equipment shall be available to students approximately 8 hours per day. Hands-on training may be accomplished on a multi-shift basis, if required, based on equipment availability.

17.1.5 Training prices shall include travel, lodging, meals, and any other incidental costs.

17.2 Student Administration.

17.2.1 Students whose academic progress does not meet the standards established for the course will continue in training and will be reported in accordance with paragraph 17.2.2.

17.2.2 When the Contractor determines a student should be released from training for any of the reasons listed in the subparagraphs below, the Contractor shall send, within 24 hours of the determination, a message to the training QAE stating the reason(s) and requesting disposition instructions.

17.2.2.1 Student's academic progress fails to meet the established course standards, and in the opinion of the Contractor's course supervisor, the student cannot satisfactorily complete the course.

17.2.2.2 Continuation of student in training would be hazardous to life or property.

17.2.2.3 The student's physical condition, by reason of injury or illness, has been changed to the extent further training is deemed impractical.

17.2.2.4 Student's conduct is such that disciplinary action is required and circumstances warrant withdrawal.

17.2.2.5 An emergency develops which, for compassionate reasons or for personal emergency, requires a student to be withdrawn from the training either temporarily or permanently.

17.3 Government Visitation. During regular duty hours of the Contractor, Government representatives may visit the training facility during performance of this contract for the purpose of evaluating quality of training. Such Government representatives are without authority to request or direct the Contractor to make changes in the contract.

H18 Economic Price Adjustments (EPA).

18.1 The Economic Price Adjustment is for labor only. The prices of supplies (e.g. spare parts, etc.) are not subject to the EPA clause. The adjustment provision of this contract applies to the following contract items: hardware maintenance (2000 and 8000 series CLINs); training (SLINs 5001AA-5999AC); pre-installation site survey (CLINs 7001-7049); communications installation (CLIN 7101); equipment relocation (CLINs 7201 and 7202); performance monitoring and tuning services (CLIN 7301); on-site systems analyst and engineering support (CLINs 7401-7409); on-site upgrade (CLINs 7103 and 7107) and factory configuration (CLINs 7105 and 7109). The first period for which an adjustment will be made is contract months encompassing FY95. An adjustment will be made for all successive contract renewal periods for the life of the contract.

18.2 Since hardware maintenance (2000 and 8000 series CLINs), training (SLINs 5001AA-5999AC) and relocation-packing/unpacking and moving (CLIN 7202) are a combination of both labor and supplies, a ratio of 65:35 will be used to apportion these two categories. Hence, for example, if the contract at the time of award contained an hourly maintenance fee of \$1000, \$650 would be attributable to labor. Only the base amount of \$650 would be annually ADJUSTED under this clause; therefore, the balance of \$350 constitutes the UNADSTABLE portion representing supply cost and profit.

18.3 Adjustments will be made utilizing the yearly average hourly earnings for Computer and Data Processing Services (SIC Code 737), as published by the U. S. Department of Labor, Bureau of Labor Statistics. The adjustment will be made based on the change in the yearly average for the prior year and the chronologically-earlier year from the effective adjustment start date, if such change is equal to or greater than 3 percent.

18.4 The percentage adjustment shall be obtained by subtracting the chronologically earlier year's average hourly earnings from the prior year's average hourly earnings and dividing this difference (a plus or a minus) by the chronologically earlier year's average hourly earnings (rounded to four decimal places). For example, if the adjustment was to be effective on 1 OCT 1987, the prior year (1986) and the chronologically earlier year (1985) average hourly earnings would be used to calculate the percentage change, the following calculations would apply:

<u>Year</u>	<u>Annual Hourly Earnings</u>	<u>Percent (%)</u>
1985	11.00	
1986	11.61	5.55

The adjustment percentage equals 5.55% (0.0555). Using the prices stated in paragraph H18.2 as an example, the current adjusted base amount (\$650) of the price will be multiplied by the adjustment percentage (5.55% or 0.0555) and this product (\$36.08) will be added to the monthly maintenance fee (\$1000) to establish the new maintenance price ($\$650 + \$350 + \$36.08 = \1036.08) which shall be in effect for the period of 1 Oct 87 thru 30 SEP 88.

18.5 In no case shall the adjustment be made for changes less than 3 percent or more than 10 percent in any 12 month period. Regardless of the amount of an adjustment, the maximum adjustment price for any contract item shall not exceed the lower of the following:

18.5.1 The lowest price at which the Contractor then offers the services to its most favored commercial customer under like circumstances; or

18.5.2 The price the Contractor has established for the service on its GSA ADP Equipment Schedule, if any.

18.6 No adjustment shall apply to any contract item whose delivery has been delayed beyond the effective date of the adjustment unless the Contractor's delay is excusable in accordance with the Defaults Clause.

18.7 In the event of revision or discontinuance of SIC Code 737, comparable codes provided by Bureau of Labor Statistics shall be used. The Contracting Officer will select the code that most closely approximates the revised or discontinued code. The CO's selection is subject to the Disputes Clause.

18.8 Since the prices for these contract items will be adjusted based on a specific economic index, other price increases are not allowed (e.g. unique price changes over time, or an escalation percentage). If discounts are applicable, then the discounted prices shall be used as base prices for determining newly adjusted prices.

H19 Computation of Fractional Charges.

19.1 Charges for fractions of a calendar month shall be computed at the rate of 1/30 of the monthly rate for each calendar day. When figuring monthly charges for maintenance, take into consideration paragraph H13.4.

19.2 Charges for fractions of a week shall be computed at the rate of 1/x where x represents the number of calendar days worked per week.

19.3 Charges for fractions of a day shall be computed at the rate of 1/x where x represents the number of hours worked per day.

19.4 Charges for fractions of an hour shall be computed at the rate of 1/4 of the hourly rate for each 1/4 of an hour or part thereof.

H20 Government Site Preparation.

20.1 The Government shall prepare the site at its own expense and in accordance with the Site Preparation Requirements and Installation Plan (C001) submitted by the Contractor.

20.2 The Contractor shall inspect the site within five (5) work days from receipt of written notice from the Government that the site preparation work is completed.

20.3 Within 48 hours of completion of the site inspection, the Contractor shall notify the Contracting Officer in writing whether the site is in compliance with the plan. If the site does not comply with the approved plan, all site deficiencies and corrective action required shall be included in the written statement. The site will be available to the Contractor for the purpose of installation at least 30 calendar days prior to the installation date required in Section F. If the Government delays availability of the site, resulting in a delay to installation date, charges shall apply. Charges for purchased systems and/or components shall accrue at the rate of 0.0011 of the purchase price for each day after the thirty-first day and shall continue until the first day of the acceptance test period.

H21 Base Support/CONUS.

The Government shall furnish the Contractor working space, at the Contractor's own risk, including heat, light, ventilation, electric current, and outlets for the use of the Contractor's maintenance and systems analyst personnel. These facilities shall be provided at no charge to the Contractor.

H22 Base Support/OCONUS (including Hawaii and Alaska) Logistic Support.

22.1 Logistic support will be provided at those OCONUS installations (or areas) listed in paragraph F6. (See Attachment 10 for Status of Forces Agreements)

22.2 The Contractor is responsible for any passports or visas, and any travel requirements to and from any OCONUS installations.

22.3 If, during the life of the contract, the Contractor needs to revise the OCONUS logistic support, the Contractor agrees to provide to the Contracting Officer a complete proposal supported by detailed documentation of all necessary changes of in-place logistic support requirements at the specific installation not later than 120 days before the planned required need date.

22.4 If the Contracting Officer finds it to be in the best interest of the Government, within the foreign environment in which the Contractor will be performing outside the limits of the United States and its possessions, he may at any time during the performance of this contract order the Contractor to remove any of his personnel from further performance under this contract for reasons of their moral character, unethical conduct, security reasons, or for violation of installation regulations. In the event that it becomes necessary to replace any Contractor personnel for any of the above reasons, the Contractor shall bear all costs associated with such removal, including the costs for the replacement of any personnel so removed.

22.5 The withdrawal of the Invited Contractor or Technical Representative status or any of the privileges associated therewith by the U.S. Government, will not constitute grounds for excusable delay by the Contractor in the performance of the contract, nor will it justify or excuse the Contractor defaulting in the performance of this contract; and such withdrawal will not serve as the basis for the filing of any claims against the U.S. Government. Under no circumstances will the withdrawal of such status or privileges be considered or construed as a breach of contract by the U.S. Government. The determination to withdraw the status or privileges by the contracting or other such competent U. officer, shall be final and binding upon the parties unless it is patently arbitrary, capricious, or lacking in good faith.

22.6 The Contractor's employees and their dependents may be granted OCONUS logistic support items or privileges as found in Attachment 10. (The items or privileges will be those indicated as needed in paragraph K35, agreed to by the appropriate officials, and agreed to in the negotiations.)

H23 Relocation of Component(s).

23.1 In the event that any component(s) being maintained under the terms and conditions of this Contract is moved to another location (CLINs 7201 or 7202) the Contractor shall continue to maintain the component(s) at the new location.

23.2 Should the component(s) be moved into a location not covered by the contract, the maintenance service shall be discontinued by the Government upon Contractor's receipt of 30 days prior written notice, without further obligations being incurred by either the Contractor or the Government.

23.3 If relocation is required because of an emergency, the Government will notify the Contractor. The notification shall be promptly confirmed in writing by the Government. The Government reserves the right to rearrange any component(s) (i.e. movement within an installation) without prior notification.

23.4 Maintenance charges shall be interrupted only for relocation (not rearrangement) of component(s) and shall cease at the end of the day stated in the Government's notice. Maintenance charges shall be reinstated on the day following the first day the equipment is in place and in good operating condition at the new location.

H24 Industrial Priority Rating.

It is DoD policy to normally not assign industrial priority ratings for the acquisition of computers and peripheral equipment. In fact, industrial ratings shall not be used when the primary function of the equipment will be for administrative or business purposes such as financial management (payroll, budget, etc.), insurance programs, commissary or base exchange operations and personnel, education, or training programs. Industrial priority ratings shall not be used when the equipment will be financed by DoD components with non- appropriated funds. However, a DO-A7 rating may be used on delivery orders for computer systems/peripheral equipment that will be used as an integral part of an end item which is necessary to conduct strategic or tactical military operations; necessary for logistics support of military operations; or necessary for R&D, production, testing, or construction at Government-owned facilities.

H25 Contractor's Proposal.

Contractor's proposal, submitted in response to solicitation number F19630-90-R-0001 entitled Super-minicomputer, dated, 3 January 1992 as revised and supplemented through date of receipt of Best and Final Offer, is incorporated into this contract by reference.

H26 Status of Technical Proposal Following Award. AFCC FARS 15.406-2(h).

When the Contractor's technical proposal is incorporated into the contract:

- (a) The Contractor shall fully perform in accordance with the terms of the Government's specifications.
- (b) The Contractor shall also fully perform in accordance with its technical proposal when the technical proposal offers more than the Government's specifications.
- (c) Any conflict between the Contractor's technical proposal and the Government's specifications shall be resolved by giving precedence to the Government's specifications.

H27 Discontinuance of Recurring Requirements.

The Government reserves the right to discontinue recurring requirements without prejudice to the Government provided that a 60 calendar day advance notice is provided to the Contractor in writing.

H28 Cancellation of Overseas Maintenance, and Systems Analyst and Engineering Support.

In the event of a contingency (war, international crisis, foreign emergency, etc.), the Government reserves the right to immediate cancellation of monthly maintenance, and systems analyst and engineering support at overseas locations at no charge to the Government.

H29 OCONUS Transportation.

Transportation support for OCONUS shipments will be provided by the facility listed in paragraph F3.

H30 Total System Integration Responsibility.

The Contractor shall have total responsibility for integration of all components delivered under this contract. The Contractor shall ensure that all Government-owned equipment (GOE) and software identified in Table C-1 is integrated into the system and that no GOE and software is impaired by the integration effort.

H31 Total System Performance Responsibility (TSPR).

31.1 The Contractor agrees to assume TSPR for the integration of the Super-minicomputer system at all installations. TSPR means complete and successful accomplishment of the effort defined in Section C of this document. This effort includes but is not limited to the areas listed below.

31.1.1 Configuration, installation, integration and testing of application software and components.

31.1.2 Performance of all contractual requirements without degrading the performance of GOE identified in Table C-1.

31.2 The Contractor recognizes and agrees that assumption of TSPR has the following consequences.

31.2.1 The Contractor retains full responsibility for successful integration with the GOE specified in Table C-1.

31.2.2 The Contractor is not relieved of its obligation to make timely delivery, nor is it entitled to any other adjustment because of failure to implement corrective actions.

31.2.3 The cost of performing TSPR is included in the price of the contract and the Contractor shall not be entitled to any equitable adjustment in contract price or schedule because of problems encountered in fulfilling the TSPR responsibilities. Furthermore, the Contractor agrees that failure to meet the system performance requirements caused by the GOE as integrated shall be deemed to constitute an integration deficiency or incompatibility for which the Contractor is liable unless the Contractor can provide clear and convincing evidence that the GOE, as delivered by the Government, was not "suitable for use".

31.2.4 Notwithstanding any right which the Contractor may have to an equitable adjustment in price or delivery schedule under any other provision of this contract because of a change in this contract or a change or deficiency in the GOE provided to the Contractor, no such change or deficiency shall relieve the Contractor of TSPR.

H32 Open Systems Certification.

32.1 The Contractor shall provide at least one of the following for each delivered version of the operating system and related software:

32.1.1 If NIST or a NIST Contractor is offering certification, then the Contractor shall provide a copy of the conformance certificate. Exceptions from the FIPS shall be shown to meet one of the NIST approved reasons.

32.1.2 If independent lab certification procedures (e.g. IEEE P1003.3) are available, then the Contractor shall provide a copy of the conformance certificate. Exceptions from the FIPS shall be shown to meet one of the NIST approved reasons.

32.1.3 If neither of the above are available, then provide the results of running the NIST POSIX Conformance Test Suite (PCTS) to include raw journal files, output reports, and configuration files with a statement describing the tested system configuration and date tested.

32.2 The Contractor shall also provide a certificate or other proof of compliance with one of the following:

- a. X/Open Common Applications Environment (CAE) as specified in X/Open Portability Guide Issue 3 (XPG3) - volumes 1, 2, and 3;
- b. AT&T System V as specified in System V Interface Definition (SVID) Third Edition - volumes 1, 2, and 3;
- c. Open Software Foundation (OSF) as specified in OSF/1.

32.3 The Contractor shall provide an updated certificate or test results within three months of component revisions (e.g. operating system upgrade) and upon Government request. All deficiencies shall be corrected within time frames acceptable to the CO.

H33 SQL Certification (FIPS 127-1 with Integrity Enhancement Required).

33.1 The Contractor shall provide at least one of the following for each delivered version of the operating system.

33.1.1 If NIST or a NIST Contractor is offering SQL certification, then the Contractor shall provide a copy of the registered validation report or the conformance certificate. Exceptions from the FIPS shall be shown to meet one of the NIST approved reasons.

33.1.2 If Independent Lab certification procedures (e.g. IEEE P1003.3) are available, then the Contractor shall provide a copy of the conformance certificate. Exceptions from the FIPS shall be shown to meet one of the NIST approved reasons.

33.1.3 If the above is not available then provide the results of using the NIST SQL Conformance Test Suite to include raw journal files, output reports, and configuration files with a statement describing the

tested system configuration and date tested.

33.2 The Contractor shall provide an updated certificate or test results within three months of component revisions (e.g., database system upgrade) and upon Government request. All deficiencies shall be corrected within time frames acceptable to the CO.

H34 GOSIP Certification (FIPS 146-1).

34.1 The Contractor shall provide at least one of the following for each delivered version of the operating system:

34.1.1 If NIST or a NIST Contractor is offering GOSIP certification, then the Contractor shall provide a copy of the registered validation report or the conformance certificate. Exceptions from the FIPS shall be shown to meet one of the NIST approved reasons.

34.1.2 If Independent Lab certification procedures (e.g. IEEE P1003.3) are available, then the Contractor shall provide a copy of the lab conformance certificate. Exceptions from the FIPS shall be shown to meet one of the NIST approved reasons.

34.1.3 If the above are not available, then provide the results of running the NIST GOSIP Conformance Test Suite tool include interpreted protocol unit (PDU) files, output reports, and configuration files with a statement describing the tested system configuration and date tested.

34.2 The Contractor shall provide an updated certificate or test results within three months of component revisions (e.g. GOSIP system upgrade) and upon Government request. All deficiencies shall be corrected within time frames acceptable to the CO.

H35 DDN Certification.

35.1 The Contractor shall provide the following for each delivered version of DDN software.

35.1.1 The X.25 interface shall be certified by the Defense Communications Agency.

35.1.2 The TCP/IP interface shall be certified under the National Volunteer Laboratory Accreditation Program (NVLAP).

35.2 The Contractor shall provide copies of the certification results to the CO upon delivery of the initial system.

H36 Technology Improvements.

36.1 After contract award, the Government may solicit, and the Contractor is encouraged to propose independently, technology improvements to the equipment, software specifications, or other requirements of this contract. These technology improvements can be used to take advantage of the rapidly advancing technology of the communications and computer industry. The Government desires to avail itself of cost effective advances the Contractor can propose and demonstrate to the satisfaction of the Government, as being technically equal to or better than components proposed to meet the mandatory requirements. These changes may be proposed to save money, improve performance, save energy, or satisfy increased data processing requirements. If the proposed changes are acceptable to both parties, the Contractor shall submit a price change proposal to the Government for

evaluation. Those proposed technology improvements acceptable to the Government will be processed as modifications to the contract.

36.2 Only those changes identified by the Contractor in a proposal submitted pursuant to the provisions of this paragraph apply. As a minimum, the following information shall be submitted by the Contractor with each proposal.

36.2.1 A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each.

36.2.2 Itemized requirements of the contract which must be changed if the proposal is adopted, and the proposed revision to the contract for each such change.

36.2.3 An estimate of the changes in performance and cost, if any, that will result from adoption of the proposal.

36.2.4 An evaluation of the effects the proposed change would have on collateral costs to the Government, such as Government furnished property costs, costs of related items, and costs of maintenance and operation. The Contractor is required to propose exchange/sale values for all Government owned property impacted by the technology improvement proposal.

36.2.5 A statement of the time by which the change order adopting the proposal must be issued so as to obtain the maximum benefits of the changes during the remainder of this contract. Also, any effect on the contract completion time or delivery schedule shall be identified.

36.3 Technology improvement proposals submitted to the Contracting Officer will be processed expeditiously. The Government will not be liable for proposal preparation costs or any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any technology improvement proposal not accepted by the Government within the period specified in the technology improvement proposal. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract shall be final and shall not be subject to the "Disputes" clause of this contract.

36.4 The Contracting on Officer may accept any technology improvement proposal submitted pursuant to this clause by giving the Contractor written notice. This written notice may be given by issuance of a modification to this contract. Unless and until a modification is executed to incorporate a technology improvement proposal under this contract the Contractor shall remain obligated to perform in accordance with the terms of the existing contract.

36.5 Technology improvements submitted under this contract will be offered to the Government at a discount commensurate with the average discount given off the OSM or GSA commercial price list for the CLIN series provided in the basic contract. The discount will establish the maximum unit price for technology refreshment. The Contractor must supply current commercial prices and current cost and pricing data in accordance with FAR 15.804 in support of the unit prices when submitting a technology improvement proposal. When the cost of performance of this contract is increased or decreased as a result of the change, the equitable adjustment increasing or decreasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification shall state that it is made pursuant to this clause.

36.5.1 The Average OSM Discount (AOD). The discount calculation shall define how technology improvements under H36 will be determined. The AOD is calculated as follows:

a. For the specific OSM that is affected by the proposed technology improvement, identify all CLINs that OSM is supplying in that CLIN series.

b. Calculate the AVG OSM DISCOUNT PER CLIN.

$$\text{AVG OSM DISC PER CLIN} = \frac{\text{AVG OSM CLIN UNIT PRICE} - \text{GSA/COMM PRICE}}{\text{GSA/COMM PRICE}}$$

AVG OSM CLIN UNIT PRICE = Sum of OSM UNIT PRICE divided by N

N = Total number of unit prices

c. Calculate the AVG OSM DISCOUNT FOR CLIN SERIES.

$$\text{AVG OSM DISCOUNT FOR CLIN SERIES} = \frac{\text{TOTAL AVG OSM DISC PER CLIN}}{N}$$

TOTAL AVG OSM DISC PER CLIN = Sum of AVG OSM DISC PER CLIN divided by N.

N = Total number of CLINs

36.6 The Contractor is requested to identify specifically any information contained in the technology improvement proposal which the Contractor considers confidential and/or proprietary and which the Contractor prefers not be disclosed to the public. The identification of information as confidential and/or proprietary is for information purposes only and shall not be binding on the Government to prevent disclosure of such information. The Contractor is advised that such information may be subject to release upon request pursuant to the Freedom of Information Act (5 U.S.C. 552).

36.7 If a technology improvement proposal pursuant to this clause is accepted and applied to this contract, the Government will never pay a price that exceeds GSA Contract price nor a price higher than that offered to a most favored customer.

H37 Equipment and Component Substitutions.

37.1 Contractor supplied equipment and components may not be substituted until the Contractor has submitted a complete proposal to the CO with adequate supporting justification, an agreement between the CO and the Contractor is reached to effect such substitution, and authorized by a bilateral modification to the contract. The Government may allow equipment and components substitutions when, in the opinion of the CO, it is in the best interest of the Government to do so. The best interest means at least equivalent performance with significant economic benefit, significantly enhanced performance at no additional cost to the Government, or a combination of both the above.

37.2 The Contractor shall certify that any equipment and components substituted in accordance with the above paragraph is at least equal to the replaced equipment and components in terms of performance and operability, maintainability, and the overall system's performance and in no way degrades any capability and/or performance of the system.

H38 Customized Delivery Order CLIN

38.1 The purpose of the ACustomized Delivery Order CLIN@ is to offer the ability for customers to order a solution, or group of products that may include products that are not currently on the contract (ODCs), all of which can be ordered on a single Delivery Order using CLIN 0990.

The purpose of the ADiscount Information CLIN@ is to offer the ability for the contractor to order a bottom-line discount based upon the type and quantity of products or services being ordered using SLIN 099099.

38.2 Products or services that are not currently available on the contract (ODCs) can be included in the appropriate Solution CLIN (CLIN 0990), but the total value of the ODCs must be less than 20% of the value of the Delivery Order. The limit may be exceeded with the written approval of both the JPMO and the Contracting Officer identified in G2.1. These approvals must be obtained prior to any quote issued to a customer.

38.3 Customers should contact the contractor and request a combined quote for items (products and services) that they need. The contractor will offer a Firm Fixed Price (FFP) quote utilizing the items available from the Super Minicomputer contract (B-Tables), and other pricing for the ODCs (items that are currently not available on the contract.)

38.4 The new CLIN is:

CLIN	Description	Unit of Issue	Unit Price
0990	Product Solution	EA	\$1.00
099099	Discount Information	EA	(\$1.00)(negative)

38.5 For the Super Minicomputer items, the prime contract terms and conditions will apply, unless modified. For the ODCs, the contractor's quote will include modified terms and conditions, which may include, but are not limited to: warranty length and type, warranty response times, delivery times, and interoperability capabilities of the ODC products.

38.6 Quotes using the Solution CLIN shall include the following:

- 1) For each product either the Super Minicomputer contract CLIN or vendor part number for ODCs,
- 2) Super Minicomputer contract CLIN short description, or for ODCs, the vendor catalog description, and
- 3) The Super Minicomputer contract price, or for the ODCs, the vendor catalog price.

Copies of the quotes provided to customers will be provided to the Super Minicomputer Government Program Manager, SPAWAR, and the SCO identified in Section G2.1.

38.7 The total of both the Super Minicomputer items and ODCs would be calculated to ensure that the 20% rule (See H38.2 above) is met. Any discounts (which are negotiated between the Ordering Contracting Officer and the vendor) would be applied to this total and ordered using the Product Solutions CLIN.

38.8 The following example is provided to assist customers in using the Solution CLIN:

Solution Quote Number: P-001

PRODUCTS -

	Super Minicomputer			
0053BA	Model D350/1-Way SMP Server	2	\$18,517.66	\$37,035.32
1006	Network Server Operating System	2	\$6,516.17	\$13,032.34
	Total Super Mini			\$50,067.66

ODCs

C12345	HP RISC Server	2	\$5,000.00	\$10,000.00
	Total ODCs			\$10,000.00

Total Price	\$60,067.66
Discount	\$ 6,006.77
Product CLIN price	\$54,060.89

This quote would appear as follows on the Delivery Order:

CLIN	Description	Quantity	Unit Price	Total
0990	Product Solution (P-001) (Product list attached)	54,060	\$1.00	\$54,060.00

H39 Contract Usage Fee

39.1 Effective 1 October 1997, the following CLIN is added:

CLIN:9999NA Navy User Fee Unit Price: \$1.00

39.2 Within five days after the end of each contract quarter, beginning October 1997, PRC will prepare and forward a Block Invoice for all Contract Usage Fees received. PRC will forward this Block Invoice to the appropriate COPO, with a copy to the Joint Program Manager's Office. The COPO will have ten work days to challenge the Delivery Orders included on the Contract Usage Fee Block Invoice by contacting PRC. COPO will return the signed Contract Usage Fee Block Invoice to PRC who will then submit the Invoice to DFAS for Payment. When PRC receives payment from DFAS, PRC will forward a check in the amount of the payment to the appropriate COPO indicating the Contract Usage Fee Block Invoice number on the check. PRC will include an Exception Report on the Contract Usage Fees for which DFAS has withheld payment.

39.3 Unless otherwise requested by the Government COPO, the Contractor shall include in the Block Invoice all orders the Contractor received during the preceding contract quarter. For the purpose of the contract, the first contract quarter shall be 1 October 1997 through 31 December 1997. The Contract Usage Fee amount due shall be paid by check and forwarded to the appropriate COPO listed in paragraph G2.5 within 30 days of receipt of payment. Payee of check shall be ^ATreasurer of the United States@.

To ensure that the payment is credited properly, the Contractor shall identify the check as AContract Usage Fee- Contract F10630-93-D-0001/Invoice 97-XXXXXX.@ Accompanying the contract usage fee payment, the Contractor shall provide a file (in Excel format) containing the following information for each order for which payment was excluded from Block Invoice including: delivery order number, DD250 Invoice Number, amount of delivery order and contract usage fee amount not paid.

39.4 If the Contractor fails to remit the Contract Usage Fee within the prescribed 30 days, the amount shall be considered a contract debt to the United States Government under terms of FAR 32.6. The Government may exercise all its rights under the contract, including withholding or setting off payment and interest on the debt (see contract FAR Clause 52.232-17, Interest).

39.5 Failure by the Contractor to pay the Contract Usage Fee in a timely manner may result in termination of the contract. Willful failure or refusal to make timely payment of the Contract Usage Fee constitutes a cause for terminating the contract for default under FAR 52.249-8 (Fixed Price Supply and Service).

H40 Year 2000 Warranty - Commercial Supply Items

All hardware and software products on contract table B-1 and B-4, "The Products", when used in accordance with its associated documentation, will be capable upon installation of correctly processing, providing and/or receiving date data into and between the twentieth and twenty-first centuries; provided that all other products (for example, hardware, software, firmware) used in combination with The Products properly exchange date data with it. For this clause to be applicable, The Products, shall either be under the one year contract warranty or under a contract maintenance/support agreement and the government has installed the latest software/firmware release available on the contract. The remedies available to the Government under this warranty shall include repair or replacement of any of The Products whose non-compliance is discovered and made known to the contractor in writing no later than March 31, 2000.

H41 Terms and Conditions Applicable to Lease

41.1 These terms and conditions and the Delivery Order shall together constitute the Lease Agreement. It is understood by all parties to this contract that this is a lease arrangement. In that regard, the Government, as Lessee, contemplates fulfilling that agreement. Each lease transaction hereunder shall be initiated by a Delivery Order which shall, either itself or through a Statement of Work or other attachment, specify the terms of the transaction in addition to those contained herein. Equipment leased pursuant to a Delivery Order may include software, as well as hardware(collectively the AAssets@). Any such software shall be deemed to be licensed pursuant to applicable standard commercial software licensing terms and conditions, for the duration of the Lease Term. Prior to acceptance of the Order, Contractor may require information from the Government to establish and document the essential use of the Equipment. Such information would include, but is not limited to, a description of the applications supported by the Equipment and planned life-cycle for the Equipment.

41.2 Lease

(a) The date the Government accepts the Asset(s) is the Commencement Date. The Government must give written notification of acceptance or rejection within 14 days after receipt of Asset(s). The Lease Term for an Order will begin on the Commencement Date and continue through the end of the Term unless the Government fails to exercise its right to extend the Lease Agreement for that Order.

(b) In the event Government fails to exercise its option to renew this Lease Agreement with respect to any Order or otherwise fails to obtain appropriated funds to support this Agreement in any subsequent fiscal year but expends funds on performing functions similar to those which the Asset(s) were procured to perform, Government will be deemed to have Terminated For

Convenience

41.3 Lease Payments

Lessee shall make monthly Lease Payments on the Equipment. Lease Payments for each item of Equipment shall be calculated by the "Lease Formula" set forth below and shall use the values as described in the applicable Order:

Lease Payment = (A-B)*C, where

A= Purchase Price ("PP")

The contract CLIN Unit Price

B= Residual Value Credit ("RVC")

RVC shall be determined at the outset of the Lease Term

C = Factor Rate ("FR")

The Factor Rate will be calculated based upon the mathematics of the annuities for the Term selected.

To compute the Factor Rate, Contractor will utilize the average Constant Maturity Rate plus an amount not to exceed 410 basis points as the cost of funds. The Constant Maturity Rate (<http://www.bog.frb.fed.us/releases/H15/current>) is based on the yields on U.S. Treasury Securities interpolated and published by the U.S. Treasury.

If during the term of the Agreement, Lessee orders any addition(s) or modification(s), such Addition(s) or modification(s) shall run concurrently with the Assets to which they pertain, and the parties shall agree on Factor Rates applicable for the remainder of the Lease Term. Lease Payments for such Additions or modifications shall be paid monthly.

Lease Payments shall accrue from the Commencement Date of an Order. Contractor shall invoice the Government for each Lease Payment. The first invoice shall be delivered to Government at the end of the month in which Acceptance occurs, and monthly thereafter. Acceptance shall be governed by the terms and conditions of paragraphs E2 and H41.2(a) of the Contract. A fraction of a month for a partial month of usage will be billed for the first and last month if applicable. Government shall make payment monthly within thirty (30) days of receipt of a proper invoice, and all late payments shall include interest in accordance with the Prompt Payment Act. The monthly Lease Payments shall remain fixed for the term, unless the payments are adjusted as a result of an Asset modification. Alternate payment plans may be available and shall be set forth in supplemental terms and conditions to a Delivery Order.

41.4 Lease End/Discontinuance Options

Subject to paragraph H41.2 herein and upon written notice given at least thirty (30) prior to expiration of the Lease Term, and provided Government is not in default, Government may:

- (a) renew the Agreement, or
- (b) return the Asset(s) to Contractor at the end of the Lease Term pursuant to paragraph H41.13.

41.5 Title

Asset(s) shall be deemed to be personal property. Government shall have no right or interest in the Asset(s) except as provided in this Agreement and shall hold the Asset(s) subject and subordinate to the rights of

Contractor.

41.6 Risk of Loss

(a) The Government is relieved from all risk of loss or damage to the Asset(s) during periods of transportation, installation and during the entire time the Asset(s) is in possession of the Government, except when loss or damage is due to the fault or negligence of the government. The Government shall assume risk of loss or damage to the equipment during relocation unless the contractor shall undertake such relocation.

(b) If any Asset is damaged, Government shall promptly notify Contractor and shall, at Government's expense, within sixty (60) days of such damage, cause to be made such repairs as are necessary to return such Asset(s) to its previous condition.

(c) In the event any Asset is destroyed, damaged beyond repair, lost, stolen, or taken by governmental action for a stated period extending beyond the Lease Term (an "Event of Loss"), Government shall promptly notify Contractor and either i) replace the Asset(s) or ii) pay to Contractor, on the next Lease Payment date following such Event of Loss, a sum equal to the Amount (as calculated by multiplying the Purchase Price of the Asset by the below referenced percentages) less any net value of the Assets realized by Contractor upon remarketing, if any, or if the Event of Loss occurs after the final Lease Payment, then Government shall pay to Contractor the Amount corresponding to the final Lease Payment. The Amount is due concurrently and in addition to the Lease Payment then due. The Termination Schedule shall be determined at the outset of the Lease Term.

Termination Schedule

12-MONTH LEASE

Payment (#)	Amounts (%)	Payment (#)	Amount (%)
1	%	10	%
2	%	11	%
3	%	12	%
4	%		
5	%		
6	%		
7	%		
8	%		
9	%		

24-MONTH LEASE

Payment (#)	Amounts (%)	Payment (#)	Amount (%)	Payment (#)	Amount (%)
1	%	9	%	17	%
2	%	10	%	18	%
3	%	11	%	19	%
4	%	12	%	20	%
5	%	13	%	21	%
6	%	14	%	22	%
7	%	15	%	23	%
8	%	16	%	24	%

36-MONTH LEASE

Payment (#)	Amounts (%)	Payment (#)	Amount (%)	Payment (#)	Amount (%)
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1	%	13	%	25	%
2	%	14	%	26	%
3	%	15	%	27	%
4	%	16	%	28	%
5	%	17	%	29	%
6	%	18	%	30	%
7	%	19	%	31	%
8	%	20	%	32	%
9	%	21	%	33	%
10	%	22	%	34	%
11	%	23	%	35	%
12	%	24	%	36	%

After payment of such Amount and all Lease Payments due and owing on or before such Lease Payment date, Government's obligation to pay further Lease Payments allocable to the Asset(s) which suffered the Event of Loss shall cease.

41.7 Taxes

Government shall keep the Asset(s) free and clear of all levies, liens and encumbrances, except those in favor of Contractor and its assigns. FAR 52.229-1 is hereby incorporated by reference. In accordance with the provisions of FAR 52.229-1, State and Local Taxes, the Government shall pay all applicable state and local taxes including without limitation personal property taxes in addition to the Lease Payments, or alternatively shall provide evidence necessary and sufficient to sustain an exemption.

41.8 Care of Assets

Delivery, installation, maintenance and repair of the Asset(s) for the first year of the Lease Term will be the responsibility of the contractor for those items which include any or all of those services in the purchase price. For those items which do not fall into that category and for the remainder of the Lease Term (if any) for those that do, the Government shall (i) keep the Asset(s) in good repair, condition and working order; and (ii) maintain in force a maintenance contract with the Contractor or a manufacturer-qualified service organization.

41.9 Orders

a. Orders placing Assets under a Lease shall specify that the Assets being leased shall be covered by maintenance as specified in paragraph H41.8.

b. All Orders shall remain in effect until the planned expiration date of the Lease Term specified in the Order. Termination of any Order placing Assets under Lease by the Government can only be made pursuant to paragraph H41.16.

c. Subject to the provisions of H41.2(b), orders under Lease shall not be deemed to obligate succeeding fiscal year=s funds or otherwise commit the Government to renewal . The Government shall use its best efforts to obtain such succeeding fiscal year funding.

d. The minimum order quantity for any individual Order shall be \$100,000.00

e. Any Order may be clarified or modified through the attachment of supplemental terms and conditions.

41.10 Upgrades and Additions

If Government desires a change or addition to its Asset configuration under Lease, then Government shall give Contractor sixty (60) days prior written notice thereof. Contractor will respond in writing within fifteen (15) days from receipt of such request.

(a) Government may affix or install any accessory, addition, upgrade, equipment or device on the Asset(s) provided that such Additions can be removed without causing material damage to the Asset(s), do not reduce the value of the Asset(s), and are obtained from or approved by Contractor and are not subject to the interest of any third party other than Contractor.

(b) Any other Additions may not be installed without Contractor's prior written consent. At the end of the Lease Term, Government shall remove any Additions which were not leased to Government by Contractor, and are readily removable without causing material damage or impairment of intended function, use, or value of the Asset(s), and shall restore the Asset(s) to their original configuration.

(c) Any Additions which are not so removable will become Contractor's property (lien free).

(d) Asset Modifications, for purposes of this paragraph(d) the term "Modification" shall include Additions, modifications and changes to Assets:

(i) Modification to Asset(s) under Lease may not be placed when (1) the Modification has an aggregated purchase price of less than \$25,000; or (2) there are fewer than twelve (12) months remaining on the Lease Term for the Asset(s) being modified. When either of these conditions exists, the Modification can only be made upon payment of the purchase price of the Modification.

(ii) For each Asset Modification (including upgrades and Additions) placed under the Agreement, the Lease Term for the Asset Modification will be coterminous with the Lease Term for the Asset being modified. The price or incremental Lease Payment for the change or Addition will take into account the remaining Lease Term of the existing Lease Agreement and the price of the change or Addition request. The Lease Agreement shall continue for its Lease Term and the Government shall issue a modification to its Delivery Order which sets forth the new Lease Payment.

(iii) The Modification's Lease Payment will be calculated in accordance with paragraph H41.3 herein.

41.11 Reserved

41.12 Relocation

The Government shall keep records of the location of the Asset(s) and use best efforts to provide Contractor with thirty (30) days written notice of any intended relocation of the Asset(s). All expenses of the relocation shall be paid by Government including transportation and reinstallation at the new site. Lease Payments shall continue during the Government's relocation of the Asset(s).

41.13 Return of Asset(s)

Within thirty (30) days after the date of Termination for Convenience of the Government or non-renewal of the Agreement due to failure to obtain appropriated funds or at the end of the Lease Term, the Government shall, at its own risk and expense, have the Asset(s) packed for shipment in accordance with the Contractor's specifications and shall return the Asset(s) to Contractor in the same condition as when delivered, ordinary wear and tear excepted, and all software included in the Asset(s) must be removed from the system on which the software is resident. Upon request by the Government and at the Government's expense, Contractor shall assist in the deinstallation and packing of Asset(s) so terminated or non-renewed. Such services, if required, may be purchased under CLIN 0990.

41.14 No Discount for Early Payment

For leasing, no discount is applicable to early payment by Government.

41.15 Precedence

In the event of a conflict between the terms, conditions and/or other provisions of Contract Section H41 and the terms, conditions and/or other provisions of a Delivery Order or the remainder of the Contract or a modification to the Contract, the terms, conditions and/or other provisions of the Delivery Order shall prevail, followed by Contract Section H41, and then the remainder of the Contract.

41.16 Termination For Convenience

Government hereby acknowledges and agrees that it has specifically elected the Lease Term of the Order. Contractor has relied on such representation and on such election in determining the fair Lease Payment. In the event Government exercises its right to terminate for convenience under FAR 52.249-2, any schedule of charges agreed to by Lessor and any entity financing Lessor's acquisition of the leased Assets, and reasonably calculated to compensate that entity for the present value of expected Lease Payments on the terminated portion of any Lease, as set forth in paragraph H41.6 above, shall be considered under FAR 52.249-2(g)(2)(ii).

41.17 Definitions

Government:	All agencies and departments government-wide.
Contractor:	PRC Inc.
Contract:	F19630-93-D-0001
Delivery Order:	Delivery Order to the Contract which shall specify the terms of the lease transaction. Each Delivery Order is a separate transaction.
Asset(s):	As described in the Delivery Order.
Lease Payment:	The periodic payment described above and as set forth in the Delivery Order.
Lease Term:	The entire length of time for which the Asset(s) are scheduled to be leased, as set forth in the Delivery Order.
Commencement Date	Date the Asset(s) are accepted by the Government.
Acceptance:	Shall be at Destination in accordance with the terms and conditions of paragraphs E2 and H41.2(a) of the Contract.
First Lease Payment Due Date:	30 days from Acceptance.
End of Lease Term Option:	Fair Market Value (FMV)

H.42 User Funding Fee

42.1 Effective on all Delivery Orders (except those from the Army - see 42.6) dated 01 JUN 98 through the end of the Contract, the Contractor shall pay the Government a 2% User funding fee (UFF) for all items ordered under the contract per delivery order action. This includes all credit card orders. This UFF reimburses the Government for the costs of operating the Information Technology programs. The UFF will be payable to the Government monthly, 4 months after the last day of any given month. For the purposes of this Clause, a "month" is defined as the fourth or fifth Thursday in a calendar month depending on the month.

The following is a list of the end of the month dates:

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
JAN		28	27	25	24
FEB		25	24	22	21
MAR		25	23	22	21
APR		29	27	26	25
MAY		27	25	24	23
JUN	25	24	22	21	20
JUL	30	29	27	26	
AUG	27	26	24	23	
SEP	24	23	21	20	
OCT	29	28	26	25	

NOV	26	25	23	22
DEC	24	23	21	20

42.2 The UFF equals the total amount of obligations under the Contract during the any given month times 2%. Notwithstanding the time of payment listed in 42.1, the Contractor shall submit a report of its planned UFF payment to the Joint Program Management Office (JPMO) and the SCO listed in Section G2.1 within 1 month after the last day of any given month. This report shall indicate total orders received for the given month (in dollars), broken down by agency as listed in Section 2.5. The purpose of this report is to provide a basis on reconciliation with the Government prior to payment becoming due. The Government will accept or reject the proposed UFF within 15 days of receipt of the report. In the event the parties do not reach agreement on the UFF amount due, the Contractor shall remit the amount indicated by the Government and the difference may be resolved under the "Disputes" clause of the Contract at the election of the Contractor.

42.3 The UFF amount due shall be paid by check to the "Treasurer of the United States." To ensure that the payment is properly credited, the Contractor shall identify the check as a "User Funding Fee" and include the following information:

Program: SuperMini Program
Contract #: F19630-93-D-0001
Contract Month: (Jan, Feb, Mar etc.)

The check shall be forwarded to the following address:

Commanding Officer
Attn: Bob Abernathy
Naval Computer and Telecommunications Area Master Station Atlantic
(NCTAMSLANT)
9625 Moffett Avenue
Norfolk, VA 23511-2784

42.4 If the full amount of the UFF is not paid within 4 months after the end of the applicable month, it shall constitute a contract debt to the United States Government under the terms of FAR 32.6. The Government may exercise all rights including withholding or setting off payments and interest on the debt (see Contract FAR Clause 52.232.17, "Interest").

42.5 Failure to pay the UFF in a timely manner may result in termination or cancellation of this Contract. Willful failure or refusal to make timely payment of the UFF constitutes a cause for terminating the Contractor for default under FAR 52.249-8, "Default" (Fixed-Price Supply and Services).

42.6 For Army Users only: The above Clause provisions apply effective 01 OCT 98. For the period of 01 JUN 98 through 30 SEP 98, the following provisions apply for Army Orders:

42.6.1 The following CLIN is added:

CLIN 999901AR Army User Fee Unit Price: (\$1.00) (negative)

42.6.2 Army Users will pay a Contract User Fee directly to the Army COPO IAW current COPO procedures. Each Delivery Order will ALSO order CLIN 9999AR. The value of 9999AR will be calculated by multiplying the total value of the Order times 2%. This will be a NEGATIVE amount deducted from the order after any other discount may be applied.

H43 Perpetual License.

The Contractor shall furnish the software listed in Section B with a perpetual license

H44 Navy ITSG Compliance Clause

44.1 All products, services, and solutions provided under this contract to Department of the Navy (DON) customers will comply with the DON Information Technology Standards Guidance (ITSG) Version 1.0. The ITSG must be considered for all DON organizations involved in IT planning, acquisition, contracting, and operations. The ITSG applies to all services, products, and systems that produce, use, or exchange information electronically.

44.2 All products, services, and solutions offered under this contract to DON customers shall be ITSG Version 1.0 compliant within 3 months of signature of this modification at no additional cost to the Government. The contractor shall propose only products for DON use that are compliant with all future revisions of the ITSG within 3 months of version approval at no additional cost to the Government. All delivery orders issued prior to the issuance of this clause are exempt from this clause. Delivery orders for DON customers that include products not compliant with the ITSG will require DON IT Umbrella Program Manager approval.

44.3 All products or services that are ITSG compliant shall include a notice of DON CIO preferred product status in the CLIN description of the product. The contractor shall identify to the DON IT Umbrella Program Manager all products and services offered under this contract that are not ITSG compliant within 3 months.

44.4 Approval and signature of this modification shall indicate that the contractor certifies ITSG compliance for all products and services offered under this contract that have not been identified in accordance with the instructions above to the DON IT Umbrella Program Manager as non-compliant .

