

BASIC ORDERING AGREEMENT BETWEEN

COMPAQ Federal LLC

and

**The Regents of the University of California
Los Alamos National Laboratory**

BASIC ORDERING AGREEMENT

26389-001-01 48

This Basic Ordering Agreement (BOA) between COMPAQ Federal LLC (Vendor, hereinafter called "Seller") and the Los Alamos National Laboratory on behalf of the Department of Energy (DOE) is entered into to provide products and services to the DOE and its Management and Operating Contractors and designated affiliates in accordance with the following:

1. This Agreement includes products listed in Attachment A.
2. This Agreement is for the Department of Energy and those contractors and designated affiliates named in Attachment B.
3. The pricing is in accordance with Attachment C.
4. General Terms and Conditions CI (10/96) are included in Attachment D, and made a part herein.

The parties agree that the DOE (including DOE field offices) or any entity having a prime contract with the DOE awarded pursuant to Federal Acquisition Regulation (FAR) Subpart 17.6 and Department of Energy Acquisition Regulation (DEAR) Subpart 917.60 (collectively hereinafter called "Contractor"), may place orders under this BOA and receive the appropriate, discounted price.

Each Contractor shall place its own orders under this Agreement and shall be direct-billed accordingly.

ARTICLE 1 - SCOPE OF WORK

This Basic Ordering Agreement establishes basic terms and conditions of this nonexclusive BOA, to govern Orders from any authorized DOE site for any COMPAQ products described herein.

All orders placed hereunder shall reference the number of this BOA (26389-001-01 48) as required. The term of this BOA is five years from the effective date of this BOA. Effective term of Agreement June 1, 2001 through May 31, 2005.

The Seller agrees to furnish such quantities of products described herein as Contractor may order during the term of this Agreement. The Seller's obligation to each Contractor shall become effective upon acceptance of particular orders issued under the Agreement.

ARTICLE 2 - SHIPPING AND BILLING INSTRUCTIONS ACCEPTANCE AND INSTALLATION

- A. COMPAQ shall ship in accordance with standard commercial practices to the shipping location specified in each Order. The Order number must be clearly marked on the outside of each package. All Products ordered against an Order shall be shipped exclusively against that Order and shall not be intermingled with other Orders. Each shipment shall contain an itemized packing list and shall reference the Order number. Prior to issuance of Delivery Orders under this BOA, the Delivery location and schedule shall be negotiated for each order under this BOA.
- B. Invoices shall be submitted to the Buyer for payment by mailing to the address specified in the Buyer's Order.
- C. All invoices must reference the order number for which payment is being requested. Payment shall be Net 30 days. The Net 30 days shall be calculated based on the latter of the following: a.) the date of Buyer's Order; b.) the date of COMPAQ's invoice; and c.) the documented date of receipt of Product by the Buyer.
- D. The F.O.B. point for all products purchased under this Agreement shall be F.O.B. Destination.
- E. Prices include standard commercial packing. Any special packing requirements must be negotiated with COMPAQ in advance of placing any orders.
- F. The Buyer may, at its option and expense, elect to have the shipment made via air or express delivery directly from COMPAQ. Instructions for such activity shall be identified on the Order.

ACCEPTANCE AND INSTALLATION

- G. Final inspection of goods and services provided under this BOA will be performed at the Contractor's facility and subject to acceptance. Acceptance of goods and services under this BOA occurs at the time of delivery to the Contractor's facility.
- H. Acceptance of all equipment and licensed programs delivered under this Agreement shall be deemed to have occurred the first scheduled workday following receipt of equipment and licensed programs by the Contractor unless the equipment or licensed programs have been damaged during shipment. The warranty period begins upon acceptance.
- I. Installation and Set Up.
 - a. Installation and set-up are separately priced charges and are NOT incorporated into this Agreement.
 - b. The Customer Contractor or is responsible for unpacking the system and for performing initial assembly, set-up, and checkout of delivered equipment.

Complete detailed instructions are provided with each machine in the Operators Guide.

- c. Installation and set-up assistance, if required, may be obtained from Compaq or an Authorized Compaq ICPT Reseller via the sale of an Installation Carepaq.

ARTICLE 3 - FIXED PRICES

The Contractor shall be entitled to purchase goods and services listed in Attachment A at the fixed prices identified in Attachment C.

The prices identified in Attachment C are firm for the effective period of this Agreement, described in Article 1, Scope of Work, unless the Contractor is otherwise notified. The Seller reserves the right to change any price reflected in Attachment C provided that written or electronic notification be provided to the Contractor 30 days in advance of such change.

Orders shall reflect the Attachment A discounted pricing prevailing at the time of order placement. However, subsequent to order placement by the Contractor, but prior to shipment of goods, prices may decrease via amendment to Attachment A. In such instances, the Seller agrees to provide the ordered goods to the Contractor at the decreased prices.

ARTICLE 4 -- ADMINISTRATION AND NOTICES

BOA Procurement Administrator's Address is as follows:

Los Alamos National Laboratory
Patricia Sylvester
PO Box 1663, MS D442
Los Alamos, NM 87545
Phone: (505) 667-3694
Fax: (505) 665-7097
E-Mail: sylvester_patricia@lanl.gov

BOA Sellers Administrator's Address is as follows:

Compaq Federal LLC
Michael Mason, Federal Contracts Manager
1754 Bayshore Drive
Cocoa Beach, FL 32931
Phone (321) 783-9260
Facsimile (321) 783-6452
E-Mail: michael.mason@compaq.com

Delivery Status – Inquiries regarding delivery status should be directed to:

Lea Whiteley
Phone: 800-727-5472 ext. 7573
E-Mail: lwhiteley@custom-edge.com

Any notice or order provided for in this BOA shall be considered as having been given:

1. To the Contractor, if delivered personally to or if mailed by U.S. Postal Service addressed to the address shown above; or
2. To Seller, if delivered personally to its duly authorized representative at the site of the work, or if mailed by U. S. Postal Service addressed to the address shown above.

ARTICLE 5 - SITE-SPECIFIC TERMS AND CONDITIONS

The Seller acknowledges that the Contractor may have requirements unique to its post, mission, and/or geographic location. Therefore, the Seller agrees that the Contractor placing an order under this BOA reserves the right to incorporate its own Site-Specific Terms & Conditions relative to Environmental Safety and Health considerations as well as FAR, DEAR, or other applicable regulations and laws.

Site-specific terms and conditions shall be included under Attachment C, Exhibit C1.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the day and year of [Contractor's] signature date.

ARTICLE 6 – TERMS AND CONDITIONS

Terms and conditions of BOA 26389-001-01 48 consist of all Articles, Attachments and Exhibits contained herein. Any purchase order pursuant to the BOA shall be in accordance with the terms and conditions of the Basic Ordering Agreement.

No oral agreement or conversation with the Contractor, either before or after execution of this BOA, shall affect or modify any of the terms or obligations herein contained. Any and all changes to the terms, conditions, and obligations of this BOA must be accomplished in writing. Negotiation of terms, specifications, and any provisions hereunder has been mutually resolved and the BOA documents constitute the whole and entirety of the respective obligations of the parties.

ARTICLE 7 – AMENDMENTS TO TERMS AND CONDITIONS

Article 5. Warranty is hereby modified to read as follows. Seller (Compaq staff) will deliver Service for all products warranted and/or sold under this agreement. Within the scope of this Agreement, Seller will provide maintenance, machine adjustments, repairs and parts at no charge to the Customer for a period of ninety (90) days to three (3) years from the date of acceptance at the Customer location. The specific warranty period for each item of equipment is available from

Seller's Customer Representative. Warranty service for Seller equipment will be provided on-site (if you qualify) or may be obtained by carrying-in or mailing the malfunctioning equipment to Seller. Customers are entitled to on-site repair service during the warranty period subject to the following terms and conditions:

1. On-Site service is available only for Seller Products located throughout the United States. On-site 4 hour uplifted service is available for customers within 60 miles of a Seller or Seller satellite field service locations.
2. You must contact the Compaq Customer Support Center at 1-800-345-9000 or 1-800-OK-COMPAQ.
3. Seller will attempt to resolve warranty issues over the phone. If telephone resolution is not possible, Seller will require your assistance in performing routine diagnostic procedures.
4. Seller will make commercially reasonable efforts to provide you next business day response and second business day repair of Seller Product. Response is defined as telephone contact between Seller and the end-user for the purpose of identifying the repair issue and establishing a repair appointment.
5. Whether you receive on-site service or return the Product yourself, you must present Seller with proof of the date of purchase.

Warranty service shall, at the option of Seller, consist of repair or exchange replacement of the malfunctioning machine. Replacement machines shall be similarly configured and in good operating condition. All parts replaced during the warranty period become the property of Seller. Any charges required to ship the equipment to a local Seller repair facility are the responsibility of the Government and shall be prepaid. Seller will prepay return transportation charges to locations within the geographic scope of this Agreement. Shipment to locations outside the geographic scope of this Agreement will be at the Contractor's expense. Pursuant to the above, except for loss or damage due to the negligence of Seller, Seller is relieved of all responsibility for risks of loss or damage to machines owned by the Contractor while the machines are in transit to a Seller repair facility. This warranty does not apply if damage to the equipment is occasioned by fault or negligence of the Contractor. To assist in obtaining warranty service the Contractor may:

- a. Identify the malfunctioning component through problem determination using the Compaq Computer Corporation TEST utility supplied on the Compaq Diagnostics Diskette.
- b. Notify Seller of the malfunctioning unit and provide all the following necessary information:
 1. Results of the TEST utility
 2. Unit Serial Number
 3. Location

Proof of date of receipt

Seller Service Warranty

Seller warrants that Services will substantially conform to the Service Description. Seller will remedy non-conforming Service provided the Contractor notifies Seller of any non-conformance within thirty days after the performance of the non-conforming Service.

If in Seller's opinion, Seller is unable to otherwise remedy the non-conforming Service, Seller may refund all or a portion of the purchase price of the non-conforming Service.

Exclusions

These limited warranties do not apply to conditions resulting from improper use, external causes, including service or modifications not performed by Seller or operation outside the environmental parameters specified for the product which is the subject of the Service. Seller does not warrant that the operation of any product will be uninterrupted or error free.

These limited warranties are not applicable to third party products, which Seller provides "As Is" unless otherwise expressly specified in an applicable Service Description, Statement of Work or Seller warranty statement. Third party products may be warranted by the third party as specified in the documentation accompanying the product.

THESE LIMITED WARRANTIES ARE SELLER'S EXCLUSIVE WARRANTIES AND NO OTHER WARRANTY, REMEDY OR CONDITION, EXPRESS OR IMPLIED, WILL APPLY. SELLER SPECIFICALLY EXCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Article 8. Transportation is hereby modified. Change first line to read "Transportation shall be FOB Destination."

Article 20 Licensed Software is hereby added. Any standard commercial Software product furnished by Seller is subject to the standard commercial Software license terms applicable to the product. Software updates or revisions furnished in connection with Services are subject to the original license terms for such Software.

Article 21. Intellectual Property Indemnification is hereby added. Seller will defend, at Seller's expense, any claim brought against Customer alleging that any Equipment, Software or Documentation furnished herein infringes a U.S. patent, copyright, trademark or mask work right (the "Claim").

Seller shall pay all costs and damages finally awarded or agreed to in settlement of the Claim, provided that Customer furnishes Seller with prompt written notice of the Claim and provides Seller with information, reasonable assistance and sole authority to defend or settle the Claim.

In defense or settlement of the Claim, Seller may obtain for Customer the right to continue using the Equipment, Software or Documentation, or replace it, or modify the Equipment, Software or Documentation so it becomes non-infringing. If such remedies are not reasonably available, Seller will grant Customer a credit for the infringing Equipment, Software or Documentation as normally depreciated and accept its return.

Seller will have no liability for any Claim resulting from the combination of any Equipment, Software or Documentation furnished hereunder with other products (including Software), which were not furnished by Seller.

ACKNOWLEDGED AND CONFIRMED;

COMPAQ Federal LLC

The Regents of the University of California

BY: _____

BY: _____

TITLE: _____

TITLE: Procurement Contract Specialist

DATE: _____

DATE: May 23, 2001

ATTACHMENT A PRODUCT LIST

Compaq will develop an electronic ICPT BOA price file in to facilitate ease of order processing. The electronic price file will be updated as prices and product changes occur.

- Intel Desktops
- Intel Workstations
- Intel Options Desktops/Workstations
- Intel Servers
- Intel Server Options
- Storage
- Storage Options
- Intel Carepaqs
- Intel Laptops

CarePaq Service Description

Compaq CarePaq services are convenient packages which extend and/or uplift the warranty coverage on your Compaq products or provide hardware and software installation services. CarePaq services are available for Intel desktops, Intel laptops, Intel workstations, Intel servers, storage, and software. CarePaq service is delivered and performed by Compaq Customer Services personnel. Examples of CarePaqs include:

- Installation, hardware services and software support
- Standard warranty extensions and uplifts options. Examples: one, three and five year uplifts from basic warranty to M-F 5x9 or 7x24 four-hour on-site response.
- Operating system support: Windows NT, Windows 2000, Novell NetWare
- Integrated hardware and software service solutions.
- Storage: Compaq installation, startup, and configuration services, plus high-availability support.

Your Compaq Customer Service Representative or Compaq Authorized ICPT Reseller can assist in selecting the CarePaq service to meet your needs. CarePaq service items shall be included in the product Purchase Order. Compaq or the Compaq Authorized ICPT Reseller shall be responsible for registering or coordinating the registration of the CarePaq support packages for the end user(s). CarePaq service will be delivered and performed by Compaq.

**THE ONLY AUTHORIZED SERVICE PROVIDER UNDER THIS AGREEMENT IS
COMPAQ COMPUTER CORPORATION. SERVICES PROVIDED OTHER THAN
COMPAQ ARE STRICTLY PROHIBITED.**

Special Note: Treating of disks containing classified data

On those systems at secure sites for which Compaq or the Compaq Authorized ICPT Reseller has sold a CarePaq with DECService 4-hour on-site response, platter removal policies shall be waived during the effective period of the CarePaq. Compaq Field Engineers will provide the end user with a disk at no charge. Applicable disk manufactures: Seagate, IBM, Fujitsu, Western Digital and Quantum. (Limited to the first 5 years of the system's acceptance date.)

**ATTACHMENT B
AUTHORIZED COMPAQ ICPT RESELLERS
AND
COMPAQ ACCOUNT MANAGERS**

**Westwind for DOE/ALO, Fernald and Kansas City Plant-
Abba for Los Alamos National Laboratory.
Digital Archetype for Idaho National Engineering and Environmental Laboratory.
MIKaTECH Services, LLC for DOE Nevada site only.
Federal Data Systems for Oak Ridge and Savannah River.
Wildflower International for Argonne National Laboratory**

Westwind, Small minority woman owned business.

P.O. Box 7636
2150 Hollywood NW
Albuquerque, NM 87194-7636
Reseller Number: D26799
Office: 505-345-4720
Fax: 505-345-4419

Abba Technologies, Small minority owned 8a.

101 Central Park Sq.
Los Alamos, NM 87544
Dealer Number: D26661
Office: 505-662-6706.
Fax: 505-661-6165

Digital Archetype, LLC, Woman owned small business.

4223 East 410
North Ribgy ID 83442
Reseller number: D25777
Office: 208-745-0366 |
Fax: 208-745-0367

MIKaTECH Services, LLC, Certified SDB, Native American owned.

1881 April Mist St.
Henderson, NV. 89015
Compaq Dealer ID: D24737
Lauren Casper, owner
Certified SDB: SDB Tracking number: WA00001-0000915
SBA Pronet # P0174731
Ph: (702) 568-8617
FAX: (702) 568-8619
email: lcasper@lvcm.com

Federal Data Systems

11215 Outlet Drive
Knoxville, TN 37932
Contact: Ken Flowers
Phone: 865-675-5100

Wildflower International

103 Valley Court, Ste B
Oak Ridge, TN 37830
Contact: Kimberly Decastro
Phone: 865-483-9199

Ordering Information

To place an order under this BOA directly with Compaq Computer Corporation, or receive BOA specific price quotes, product specifications or general information about this BOA, please contact:

All orders must be sent to Mr. James VanDyke located at:

Compaq Computer Corporation

301Rockrimmon Blvd.

Colorado Springs, CO 80919

Phone number 800-727-5472 ext. 7573

James.vandyke@compaq.com

Orders placed under this BOA for goods listed in Attachment A, shall reference the Compaq Part Number/SKU # and the associated net price. The prices listed in Attachment C are net. The ICPT BOA discount has already been applied.

To schedule an on-site presentation with a Compaq account executive regarding Compaq products and/or use of this BOA, please contact:

Lenore Albright DOE Global Account Manager

Phone: 301-918-5498

e-mail : lenore.abright@compaq.com

Lois Hirsch

Phone: 865-693-9931

e-mail: lois.hirsch@compaq.com

Michael Moran

Phone: 707-451-7388

e-mail: michael.moran@compaq.com

Glen Rowe

Phone: 505-761-9635

e-mail : glen.owe@compaq.com

Scott Sompayrac

Phone: 540-310-0888

Email : scott.sompayrac@compaq.com

Customer Service:

Chris Isaak

Phone: 505-797-5063

Email : chris.isaak@compaq.com

Contracts: Michael Mason

Phone: 321-783-9260

Email : michael.mason@compaq.com

**ATTACHMENT C
PRICE SCHEDULE**

For ICPT pricing please contact the Compaq DOE account manager or an authorized Compaq Reseller listed in Attachment B.

**DISCOUNTS OFFERED UNDER ICPT ARE COMPAQ PROPRIETARY
INFORMATION NOT SUBJECT TO RELEASE OR DISCLOSURE**

ATTACHMENT D
BASIC ORDERING AGREEMENT
GENERAL TERMS AND CONDITIONS FOR COMMERCIAL ITEMS
DOE CONTRACTORS (09/98)

1. DEFINITIONS

The following terms shall have the meanings below:

- (a) Government means the United States of America and includes the U.S. Department of Energy (DOE) or any duly authorized representative thereof.
- (b) Seller means the person or organization that has entered into this Basic Ordering Agreement (BOA).
- (c) Company means any DOE Contractor utilizing the BOA.
- (d) Item includes "commercial item" and "commercial component", as defined in FAR 52.202-1.
- (e) Order means individual requests for Items issued under this BOA.
- (f) Subcontract Administrator means Company's cognizant procurement representative.
- (g) Site Specific Terms and Conditions means those unique requirements of the Company issuing Orders under this BOA which will supplement the general terms and conditions.

2. ORDER OF PRECEDENCE

Any inconsistencies shall be resolved in accordance with the following descending order of precedence: (1) item description, (2) face of the Order, (3) Site Specific Terms and Conditions, (4) face of the BOA, and (5) general terms and conditions.

3. TITLE AND ADMINISTRATION

All property rights and interests resulting from this Orders shall pass directly from Seller to the Government. Company shall make payments under Orders from funds advanced by the Government and agreed to be advanced by DOE, and not from its own assets. The BOA and Orders may be assigned by the Company to DOE or its designee, and in case of such transfer and notice thereof to Seller, Company shall have no further responsibilities hereunder.

4. ACCEPTANCE OF TERMS AND CONDITIONS

Seller, by signing the BOA or Orders or delivering the items identified therein, agrees to comply with all the terms and conditions and all specifications and other documents that this BOA or Order incorporates by reference or attachment. Company hereby objects to any terms and conditions contained in any acknowledgment of the BOA or Order that are different from or in

addition to those mentioned in this document. Failure of Company to enforce any of the provisions of the BOA or Order shall not be construed as evidence to interpret the requirements of the BOA or Order, nor a waiver of any requirement, nor of the right of Company to enforce each and every provision. All rights and obligations shall survive final performance of the BOA or any Orders thereunder or any Order thereunder.

5. WARRANTY

Seller expressly warrants that items delivered under the Orders shall be in accordance with Seller's affirmation, description, sample, or model and compliant with all requirements of the BOA and Order. The warranty shall begin upon acceptance and extend for a period of (1) the manufacturer's warranty period or six months, whichever is longer, if Seller is not the manufacturer and has not modified the item or (2) one year or the manufacturer's warranty period, whichever is longer, if Seller is the manufacture, of the item or has modified it. If any nonconformity with item appears within that time, Seller shall promptly repair or replace such items or reperform services. Transportation of replacement items and return of nonconforming items and repeat performance of services shall be at Seller's expense. If repair or replacement or reperformance of services is not timely, Company may elect to return the nonconforming items or repair or replace them or reprocur the services at Seller's expense. Any implied warranty of merchantability or fitness for a particular purpose is hereby disclaimed.

6. ASSIGNMENT

Seller shall not assign rights or obligations to third parties without the prior written consent of Company. However, Seller may assign rights to be paid amounts due or to become due to a financing institution if Company is promptly furnished written notice and a signed copy of such assignment. Payments to an assignee shall be subject to set off or recoupment any present or future claims of Company against Seller.

7. NEW MATERIALS

Unless otherwise specified in the BOA or Order, all items delivered shall consist of new materials. New is defined as previously unused which may include residual inventory or unused former Government surplus property. This does not include the use of recycled or recovered material as defined by the Environmental Protection Agency in 40 CFR 247.

8. TRANSPORTATION

Transportation shall be "FOB Origin" unless specified otherwise in the Order and no insurance cost shall be allowed unless authorized in writing on the specific Order and the bill of landing shall indicate that the transportation is for the Government and is subject to the standard Government bill of lading terms and any special rates or charges.

9. RISK OF LOSS

Where Company is liable to Seller for loss of conforming items occurring after the risk of loss has passed to Company, Company shall pay Seller the lesser of (1) the agreed price of such items, or (2) Seller's cost of replacing such items. Such loss shall entitle Seller to an equitable extension in delivery schedule obligations.

10. PAYMENT

Unless otherwise provided, terms of payment shall be net 30 days from the latter of (1) receipt of Seller's proper invoice, if required, or (2) delivery of items/completion of work. Any offered discount shall be taken if payment is made within the discount period that Seller indicates. Payments may be made either by check or electronic funds transfer, at the option of Company. Payment shall be deemed to have been made as of the date of mailing or the date on which an electronic funds transfer was made. Notwithstanding anything therein, the Company shall be entitled at any and all times to set off against any amounts payable by the Company hereunder any amount owing from Seller to the Company under Orders or any subcontracts with Seller.

11. COMPLIANCE WITH LAWS

Seller shall comply with all applicable federal, state, and local laws and ordinances and all pertinent lawful orders, rules, and regulations and such compliance shall be a material requirement of the BOA. Seller warrants that each chemical substance constituting or contained in items furnished is on the list of substances published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act as amended. With each delivery Seller shall provide Company any applicable Material Safety Data Sheet as required by the Occupational Safety and Health Act and applicable regulations including, without exception 29 CFR 1910.1200.

12. TERMINATION FOR CAUSE

(a) The Company may terminate the BOA or any Orders for cause, in whole or in part, if the Seller fails to comply with any of the terms of the BOA or any Orders, or fails to provide adequate assurance of future performance. In that event, the Company shall not be liable for any amount for items not accepted.

(b) If the BOA or any Order is terminated for cause, the Company may require Seller to deliver to the Company any supplies and materials, manufacturing materials, and manufacturing drawings that Seller has specifically produced or acquired for the terminated portion of the BOA or Order. The Company shall pay the agreed-upon price for completed items delivered and accepted. The Company and Seller shall agree on the amount of payment for all other deliverables.

(c) Seller shall not be liable to Company for delays in performance occasioned by causes beyond Seller's reasonable control and without its fault or negligence.

(d) The rights and remedies of the Company in this clause are in addition to any other rights and remedies provided by law or under the BOA.

13. BANKRUPTCY

If Seller enters into any proceeding relating to bankruptcy, it shall give written notice via certified mail to the Subcontract Administrator within five days of initiation of the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court and a listing of the BOA and Order numbers for which final payment has not been made.

14. TAXES

Taxes shall be collected and paid in accordance with the Site Specific Terms and Conditions of the respective Order.

15. CHANGES

(a) The Company reserves the right to make changes within the general scope of the BOA and any Order by issuance of a unilateral change order, or by a bilateral modification to the BOA or any Order. Such changes may include, without limitation, changes in (1) the description of the items; (2) the quantities of items ordered; (3) the method of shipment or packaging, and (4) the time or place of delivery, inspection, or acceptance. The Seller shall promptly comply with any such change made by the Company. If any change affects the cost of or the time required for performance, an equitable adjustment to the price and/or delivery requirements and other affected provisions of the BOA or any Order shall be made by the parties in a bilateral modification. Any claim for adjustment by Seller must be made within 30 days from the date of receipt of Company's change notice, although Company in its sole discretion may receive and act upon any claim for adjustment at any time before final payment.

(b) Only the Subcontract Administrator is authorized on behalf of Company to issue changes whether formal or informal. If Seller considers that any direction or instruction by Company personnel constitutes such a change. Seller shall not rely upon such instruction or direction without written confirmation from the Subcontract Administrator. Nothing in this clause, including any disagreement with Company about the equitable adjustment, shall excuse Seller from proceeding with the agreement as changed.

16. TERMINATION FOR CONVENIENCE

The Company may, in its sole discretion, terminate the BOA or any Order, or may terminate the fabrication of all or any portion of the items not then completed, at any time, by giving the Seller a written notice of termination. Upon receipt of a notice of termination, the Seller shall, unless the notice requires otherwise, discontinue all performance on the date and to the extent specified in the notice, and shall otherwise minimize costs to the Company. Payment for items already completed or in the process of completion, shall be adjusted between the Seller and the Company in a fair and reasonable manner, but such payment shall exclude any allowance for the

uncompleted portion of the items, or any anticipated profits thereon. Such payment for items already completed or in the process of completion shall be the total compensation due to the Seller for termination at will by the Company.

17. SUSPENSION

The Company may, for any reason, direct the Seller to suspend performance of any part of or all of the performance of the BOA or any Order for an indefinite period of time. If any such suspension significantly delays the progress of or causes the Seller additional direct expenses in the performance of the BOA or any Order, not due to the fault or negligence of the Seller, the compensation to the Seller shall be adjusted by a modification to the BOA or any Order and the time of performance shall be extended by the actual duration of the suspension. Any claim by the Seller for compensation of a schedule extension must be supported by an appropriate document asserted within ten (10) days from the date an order is given to the Seller to resume the performance of the BOA or any Order.

18. INCORPORATION BY REFERENCE

The BOA incorporates certain clauses by reference. These clauses apply as if they were incorporated in their entirety. For Federal Acquisition Regulation (FAR) provisions incorporated by reference, "Contractor" means Seller and "Contracting Officer" means the Company Subcontract Administrator. The FAR clauses may be obtained from the Company upon request.

The following clauses are incorporated by reference:

FAR 52.222-26 Equal Opportunity

FAR 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans

FAR 52.222-36 Affirmative Action for Handicapped Workers

19. YEAR 2000 WARRANTY - COMMERCIAL SUPPLY ITEMS

The Seller warrants that each hardware, software, and firmware product delivered under this agreement shall be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty first centuries, and the years 1999 and 2000 and leap year calculations to the extent that other information technology, used in combination with this information technology being acquired, properly exchanges date/time data with it. If the agreement requires that specific listed products must perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the Government for breach of this warranty shall be as defined in, and subject to, the terms and limitations of the Seller's standard commercial warranty or warranties contained in this agreement, provided that notwithstanding any provisions to the contrary in such commercial warranty or warranties, the remedies available to the Government under this warranty shall include repair or replacement of any listed product whose non-compliance is discovered and

made known to the Seller in writing within ninety (90) days after acceptance. Nothing in this warranty shall be construed to limit any rights or remedies the Government may otherwise have under this agreement with respect to defects other than Year 2000 performance.