

SALES REPRESENTATION AGREEMENT

This Agreement, entered into as of this _____ day of _____, 20____, by and between

("Representative")

and (COMPANY NAME), a corporation organized under the laws of the State of California, United States of America ("(COMPANY NAME)").

WITNESSETH:

WHEREAS, Representative represents that it is an (established sales organization/individual), registered or otherwise properly qualified under the laws of _____ to do business in this capacity; and

WHEREAS, (COMPANY NAME) desires to appoint Representative as its sales representative for the territory specified herein for the purpose of assisting (COMPANY NAME) in selling (COMPANY NAME) products.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

1. APPOINTMENT

(COMPANY NAME) hereby appoints Representative during the Term of this Agreement as a sales representative for the sale of those (COMPANY NAME) products set forth in Exhibit A, which is attached hereto and by this reference made a part hereof ("Products") in _____ ("Territory").

The appointment by (COMPANY NAME) of Representative as a sales representative in the Territory is subject, however, to the rights of any manufacturing and sales licensee of (COMPANY NAME) concerning the Products that is or hereinafter may be established by (COMPANY NAME) in the Territory.

Nothing contained herein shall prevent (COMPANY NAME) from discontinuing the sale and manufacture of any or all of the Products without penalty or liability. In the event of any such discontinuance, (COMPANY NAME) shall give Representative at least ninety (90) days' advance written notice whereupon this Agreement shall terminate with respect to the discontinued Product.

(COMPANY NAME) reserves the right, at its sole discretion, to decline to accept any order for Products received from any party whether or not solicited hereunder by Representative, if (COMPANY NAME) and the concerned party are unable to agree upon mutually satisfactory prices or other terms and conditions of sale or if the Government of the Territory has not approved such order for Products.

All sales by (COMPANY NAME) to the purchaser are subject to all laws, rules, regulations and public policies of the United States, particularly those relating to the exportation of goods from the United States, the transmission of technical data or other information outside the United States and the transmission of arms, ammunition, and implements of war and technical data related thereto outside the United States.

The respective parties hereto are independent contractors, and nothing herein shall be deemed to create a relationship of partnership, joint venture or principal and agent. This Agreement shall not entitle either party to make commitments of any kind for the account of the other party as agent or otherwise, or to assume or create any obligation, express or implied, on behalf of the other party, or to bind the other party in any respect, and each party agrees to and shall indemnify and hold the other party harmless in this regard.

2. ACCEPTANCE OF APPOINTMENT

Representative hereby accepts this appointment as a (COMPANY NAME) sales representative for the Products within the Territory upon the terms and conditions set forth in this Agreement. Representative (and each affiliated or subsidiary company controlled by Representative) agrees that it shall not directly or indirectly solicit or negotiate sales of, or otherwise deal in or be financially interested in the sales of, any competitive products within the

Territory without the prior written consent of (COMPANY NAME). Representative shall at all times use its best efforts to sell the Products within the Territory, and shall maintain an organization having adequate experience and ability to carry out its activities hereunder. Representative agrees that, throughout the Term of this Agreement, it shall aggressively develop business and promote the sale of the Products in the Territory by using all methods normally employed by manufacturers' representatives and distributors selling similar products, including, without limitation, sales calls, advertising in technical journals and in other publications or media, and participation in trade shows and exhibits. Any materials the Representative intends to use for publication or for use in trade shows or otherwise to promote the sale of (COMPANY NAME) products shall be subject to the prior review and written approval of (COMPANY NAME) Representative's duties are further specified in Exhibit B, which is attached hereto and by this reference made a part hereof.

3. TERM

The Term of this Agreement shall commence on _____, 20____, and shall remain in effect for a period of _____ until _____, 20____. In the event the parties wish to extend the Agreement beyond such termination date, any extension of the Term of this Agreement shall be mutually agreed upon by the parties and shall be effectuated only by an amendment to this Agreement signed by the parties prior to the expiration of the initial term period or any extension thereof. The effective period of this Agreement is herein called the "Term of this Agreement."

Notwithstanding the provisions of Subparagraph (a) of this Paragraph, this Agreement may be terminated pursuant to Paragraph 13 below.

4. COMMISSION

- (a) (COMPANY NAME) shall pay Representative a commission for its services hereunder amounting to _____% of the Net Sales Price of any contract with either the Government of the United States under the Foreign Military Sales Program, or with a customer in the Territory, which Net Sales Price is actually and directly paid to, and received by, (COMPANY NAME), as specified in the concerned contract for each Product manufactured by (COMPANY NAME), delivered to and accepted by the concerned customer; provided, however, that such contract is funded and becomes binding during the term of this Agreement; and provided, further, that, in no event shall (COMPANY NAME) be obligated to pay commissions in excess of the amount permitted by Article r (c), (e) and (f) of this Agreement.
- (b) The term "Net Sales Price", as used herein, shall mean only that portion of the contract sales price that is actually paid directly to (COMPANY NAME) for Products manufactured and sold by (COMPANY NAME), but shall not include:

- (i) the value of any items that may be furnished to (COMPANY NAME) by others without cost to (COMPANY NAME) for its incorporation into the Product, for example, items furnished by the United States Government to (COMPANY NAME) as "Government Furnished Equipment";
- (ii) any payments that (COMPANY NAME) may receive under the contract for technical assistance, technical data or documentation that may be furnished to the purchaser by (COMPANY NAME);
- (iii) any reimbursement that may be received by (COMPANY NAME) under the contract for taxes, customs, duties and the like, as well as the cost of packing, crating, transportation and insurance during such transportation;
- (iv) the value, if any, that may have been included by (COMPANY NAME) in the contract price to cover Representative's commissions hereunder;
- (v) the value, if any, included by (COMPANY NAME) in the contract price for the recoupment by the United States Government of its research and development expenses associated with the Product being sold by (COMPANY NAME); and
- (vi) the value of the United States Government's administrative charges assessed in connection with a Foreign Military Sales-type arrangement.
- (c) Commissions shall become payable hereunder to Representative only at such times and only to the extent that (COMPANY NAME) actually receives unconditional payment from the purchaser under the contract for (COMPANY NAME)'s sale of the concerned Product. (COMPANY NAME) shall effect payment to Representative of the appropriate commission in the same currency in which (COMPANY NAME) receives payments under the contract. No part of such commission shall be refunded to (COMPANY NAME) or its officers, directors, employees or representatives, or any other person related to such persons. If payments are made to (COMPANY NAME) in increments or installments, Representative's commission shall be computed and paid by (COMPANY NAME) on a pro rata basis until such time that Representative has received the total commissions payable to it under this Agreement. Representative's commission shall be adjusted in the event there are changes or adjustments in the Net Sales Price allowed and made under the relevant contract.
- (d) In the event any contract to (COMPANY NAME) for the sale of a Product is suspended, canceled or terminated in whole or in part by the purchaser for any reason, or is terminated because of force majeure or because of the suspension, cancellation or termination of any United States license applicable to such contract, the obligation of (COMPANY NAME) to pay commissions with respect to such contract as of that time shall not exceed its obligation, as set forth in Paragraph (c) above.
- (e) Notwithstanding any other provision of this Agreement to the contrary, (COMPANY NAME)'s obligation to pay Representative the commissions specified herein shall be expressly subject to and contingent upon:
- (i) such payments by (COMPANY NAME) not contravening the laws, rules, regulations and the expressed public policies of the Government in the Territory and the United States Government;
- (ii) with respect to Foreign Military Sales or Grant Aid, such payments being recognized and reimbursed to (COMPANY NAME) by the United States Government as an allowable item of cost under the applicable procurement regulations of that Government; and
- (iii) with respect to a direct sale in the Territory, such payments being included in the price of the Product and paid to (COMPANY NAME) by that purchaser.
- (f) Notwithstanding any other provision of this Agreement to the contrary, (COMPANY NAME) shall not be obligated to pay commissions to Representative during the term of this Agreement for its cumulative efforts under Article 4(a) above in excess of _____.

- (g) (COMPANY NAME) shall be entitled to disclose the contents of this Agreement to the extent (COMPANY NAME) deems such disclosure to be appropriate.
- (h) Representative agrees that it shall be solely responsible for any and all costs or expenses that it may incur in the performance of its sales activities hereunder. Nothing in this Agreement shall be construed as granting Representative any rights to residual commissions.
- (i) (COMPANY NAME) shall keep accurate records of all sales of Products hereunder and quarterly (on January 15th, April 15th, July 15th and October 15th) shall submit a report to Representative indicating its total sales for that period and the amount of payments received by (COMPANY NAME) with respect to such sales, which are commissionable. (COMPANY NAME) will include the appropriate commission payment to Representative as specified above with each such report.
- (j) The Representative shall not be entitled to commissions for services under subcontracts of any contract on which (COMPANY NAME) has paid commissions pursuant to this Agreement. In the event the Representative receives commissions under such subcontracts, (COMPANY NAME) shall be relieved from its obligation to pay commissions on that part of the Net Sales Price relating to such subcontracts.
- (k) Payment by (COMPANY NAME) to the Representative shall be made to such bank in the Territory as is, from time to time, designated by the Representative with said payment to be made in strict compliance with applicable tax and foreign exchange laws, rules, regulations and the expressed public policies of the government in the Territory and the United States Government.

5. PRODUCT LITERATURE

Subject to all applicable United States Government laws and regulations, (COMPANY NAME) shall furnish Representative, from time to time, with such reasonable quantities of current literature and data covering the Products as are usually made available by (COMPANY NAME) to distributors and sales representatives for assistance in soliciting the sale of its Products. Such literature will be in the English language and will use such weights measures and standards that are commonly used in the United States. Representative shall be responsible for the cost and accuracy of any translations and conversions of this data

6. SALES BY (COMPANY NAME) IN THE TERRITORY

(COMPANY NAME) shall be permitted, without obligation either to pay a commission, to make a discount or otherwise become liable to Representative, to sell Products in the Territory to:

- (a) the United States Government (either in the Territory or out of the Territory) for use in the Territory;
- (b) any purchasers (either in the Territory or out of the Territory) for use in the Territory but only where such Products are an integral part of some other end item of equipment (or of a system) being sold by (COMPANY NAME); and
- (c) any other purchaser having a principal place of business out of the Territory even though any Products sold and delivered by (COMPANY NAME) to such purchaser out of the Territory may later be used or resold in the Territory by such purchaser.

It is understood that, if (COMPANY NAME) sells any of the Products in the United States to an official purchasing mission or agency of the Government in the Territory, and such sale occurs during the Term of this Agreement and is initiated, promoted or developed by Representative, then (COMPANY NAME) shall pay Representative's commission on such sale in accordance with Paragraph (a) (ii) of Article 4 of this Agreement.

It is further understood that (COMPANY NAME), or any licensee that may be established by (COMPANY NAME), shall, without liability or obligation to Representative, be free to enter into and perform contracts for the service or repair of Products anywhere in the world for any customer.

7. TRAINING OF REPRESENTATIVE PERSONNEL

In order to become more conversant with the Products, Representative may, at its sole cost, send not more than _____ of its sales or technical personnel to the plant facilities of (COMPANY NAME) for reasonable training and indoctrination in the characteristics and applications of the Products. (COMPANY NAME) will provide such training and indoctrination at its plant facility without charge to Representative.

8. INDEMNIFICATION:

You shall indemnify, defend and save (COMPANY NAME) harmless from any and all claims of third parties for loss or damage to property or injury or death to persons arising out of or any way related to your acts or omissions, including the acts or omissions of any of your employees, in connection with your performance of this agreement. Such indemnification shall survive the expiration or termination of this agreement.

9. NOTICES:

Notices hereunder shall be sent by registered air mail or cablegram addressed to the parties at the following addresses or such other addresses as specified by notices pursuant to this section:

To NORTHROP GRUMMAN: (COMPANY NAME)
Electronic Systems
Purchasing Representative specified on the face of the
Purchase Order

All air mail notices shall be effective and deemed to be given twenty-four (24) hours after posting, and all cable notices shall be effective and deemed to be given twelve (12) hours after delivery to the cable office, except that a notice which would be otherwise effective on a Saturday, Sunday or holiday shall be effective at 9:00 a.m. on the next business day thereafter.

10. MUTUAL COMMITMENTS

The parties and their respective employees and agents shall not directly or indirectly make an offer, payment, promise to pay or authorize payment of money, or offer a gift, promise to give, or authorize the giving of anything of value for the purpose of influencing an act or decision of an official or employee of the Government in the Territory or the United States Government (including a decision not to act) or inducing such a person to use his influence to effect any such government act or decision in order to assist (COMPANY NAME) in obtaining, retaining or directing any such government business.

Neither party shall, without the prior written consent of the other party, assign this Agreement in whole or in part or delegate any right or duty hereunder to any third party, subagent, representative, or consultant. Any attempted assignment not having such consent shall be void and without effect. Representative shall not make any payments to such persons without the knowledge and prior approval of (COMPANY NAME).

The parties to this Agreement shall not take any action which would constitute a violation of the laws, rules or regulations of the United States or the Territory, would be embarrassing or would create an appearance of impropriety, and in the event a party is found to have violated any such law, rule or regulation, such party shall

indemnify, defend and hold harmless the other party from any liability, expense, or cost it may incur as a result of such violation. Such indemnification shall survive the expiration or termination of this Agreement.

Each party shall indemnify, defend and save the other party harmless from any and all claims of third parties for loss or damage to property or injury or death to persons arising out of or in any way related to their acts or omissions including the acts or omissions of their employees in connection with their performance of this Agreement. Such indemnification shall survive the expiration or termination of this Agreement.

11. LAW GOVERNING

This Agreement was entered into and shall be deemed to have been made in the State of _____, United States of America, and shall, for all purposes, be governed by and construed under the laws thereof regardless of where any Court action or proceeding is brought in connection with this Agreement; provided, however that the laws of the Territory relating to commission sales representative relationships and remuneration for such services shall also apply and govern such rights and obligations under this Agreement; and provided further, however, that no choice of law rule of such State or any other jurisdiction, which would cause any such matter to be referred to the law of any jurisdiction other than such State, shall be given any force or effect.

12. CONFIDENTIAL INFORMATION

Representative, its officers, agents, servants and employees shall not, during the term of this Agreement or any time thereafter, disclose in any manner to any person, firm or corporation, whether in competition with (COMPANY NAME) or not, any knowledge or information pertaining to the conduct or details of (COMPANY NAME)'s business or its processes, formulas, machinery, devices, products and components used by (COMPANY NAME) in carrying on its own business, or lists of (COMPANY NAME)'s customers. Representative shall not use (COMPANY NAME)'s trademarks, name, logo or trade names in any manner except as authorized by (COMPANY NAME) or in connection with (COMPANY NAME)'s literature. Representative shall discontinue such usage upon termination of this Agreement for whatever reason. Representative, on termination of this Agreement, shall deliver to (COMPANY NAME) all copies in its possession or within its control of (COMPANY NAME) customer lists, catalog sheets, specifications, proposals, quotations, price lists, contracts (whether or not executed) and other documents and data relating to the Products or the conduct of (COMPANY NAME)'s business, and (COMPANY NAME) may withhold all sums due the Representative on termination until all such material and documents have been received by (COMPANY NAME). Representative shall not contest or take any action to affect adversely (COMPANY NAME)'s patents or proprietary positions with respect to the Products.

13. REPORTING REQUIREMENTS

Representative shall provide (COMPANY NAME) (addressed to the attention of Mr. _____, located at _____ with a written marketing activity and forecast report concerning the Products at (monthly/quarterly) intervals during the Term of this Agreement beginning (thirty (30)/ninety (90) days after the date first above written. This report shall: (i) identify as appropriate potential customers and their expected uses for the Products, (ii) provide as appropriate a current forecast of the total sales potential for each such customer; (iii) include as appropriate, a forecast of the expected total sales quantity for each Product covered by this Agreement; and (iv) in all cases specify what activities Representative has undertaken during the reporting period as a result of its obligations under this Agreement in furtherance of sales of the Products.

14. TERMINATION

- (a) **For Convenience.** Either party shall have the right at any time during the Term of this Agreement, for any reason and without cause, to terminate this Agreement for its own convenience on giving thirty (30) days' notice in writing to the other party. On such termination for convenience, nether party shall have any further obligation or liability to the other under the terms and conditions of this Agreement except that (i) (COMPANY NAME) shall pay Representative any commission previously earned by Representative as provided in this Agreement and unpaid as of the effective date of termination when and if such fees are payable to Representative as provided in the Agreement; and (ii) if (COMPANY NAME) so terminates it shall pay any commission that Representative would have earned absent such termination, as provided in this Agreement, if (COMPANY NAME) enters into a funded and binding contract prior to what would have bee the normal expiration of the term of this Agreement or prior to one (1) year from the date of termination, for convenience, whichever comes first; provided, however, that any such payment shall be reduced by eight and one-third percent (8 1/3%) for each thirty (30) days that has elapsed between the effective date of termination and the date such contract becomes funded and binding.

- (b) **For Breach.** If at any time during the term of this Agreement or any renewal thereof, either party materially defaults in its performance of breaches any of the terms and conditions of this Agreement, or is adjudged bankrupt, makes an assignment of assets for the benefit of its creditors, has a receiver appointed for it, is adjudged insolvent, ceases operations or is dissolved, then the other party shall have the right to terminate this Agreement immediately by written notice to the other party. If Representative materially defaults or breaches the Agreement and (COMPANY NAME) terminates for breach, as provided herein, any commission previously earned by Representative, as provided in this Agreement, and unpaid as of the date of such termination, shall be, and by the signing hereof is hereby, waived by Representative. Without limiting the foregoing, any relationship of the Representative during the term of this Agreement, which creates a conflict of interest hereunder shall be a material breach for purposes of this Paragraph. If (COMPANY NAME) materially defaults or breaches the Agreement and Representative terminates for breach, as provided herein, (COMPANY NAME) shall pay Representative any commission previously earned by Representatives, as provided in this Agreement, plus any commission that Representative would have earned absent such termination, as provided in this Agreement; provided, however, that (COMPANY NAME) enters into a funded and binding contract prior to what would have been the normal expiration of the term of this Agreement or two (2) months from the date of termination, whichever comes first.

15. OTHER MATTERS

This Agreement is the entire agreement between the parties and shall not be amended or modified except by a written instrument duly signed by authorized representatives of the parties.

IN WITNESS WHEREOF, the parties hereto have signed these presents on the day and year first above written by their proper officers on their behalf.

(COMPANY NAME), _____
by and through its _____, 20____ Sector _____

(Northrop Grumman Corporation)

(Sales Representative)

By _____
Signature Date

By _____
Signature Date