

Section J - List of Documents, Exhibits and Other Attachments

OPTIMIZER SPECIAL LICENSE AGREEMENT

1. Notwithstanding any other provision of this contract, the Contractor grants the Federal Government a non-exclusive, fully paid-up, special license as follows. The Contractor acknowledges that the Government has need of special rights as listed herein for this research and development effort. The Contractor also acknowledges that the Government has, in addition, such other data and information rights as are identified and/or specified elsewhere in this contract.
2. BACKGROUND: This procurement is a research and development effort to accelerate development, gain configuration control and test an optimizer device for Kaplan turbines whose usefulness extends not only to enhancing power production, but also assisting the using agencies in meeting environmental requirements applicable to the Columbia River Federal Power System (CRFPS).
3. The Contractor brings to the procurement certain contractor-developed software (hereafter "contractor-pre-developed software").
4. During the course of this procurement and follow-on procurements, if any, the Contractor will co-develop with the Government an optimizer-device (hereafter "co-developed software and hardware").
5. The Government may or may not, at the Government's sole-option, procure additional contractor optimizer-devices. This may be software only or both software and hardware.
6. The Government may also, at its sole option, develop and procure Government optimizer-devices independently with its own resources or in cooperation with third parties.
7. CONTRACTOR RIGHTS:
 - A. The Contractor will copyright-protect the Contractor's pre-developed software at the onset of this contract in order to document the development status at the time the contract period starts, and will be entitled to such copyright privileges and rights as are conferred by Federal copyright law.
 - B. The Contractor needs test data to be able to demonstrate Optimizer operability for his commercial marketing purposes. The Government agrees to provide such test data, one time only, that does not reveal specific characteristics or the identification of the tested machine. The Contractor may use this data as often as he likes.
8. JOINT RIGHTS: The Contractor and the Government equally share unlimited rights in all co-developed hardware and software under this contract. To the extent that anything co-developed under this contract is patented, copyrighted, or trademarked, both the Contractor and Government will be equal co-owners of such patents, copyrights, and/or trademarks, and each have full rights under such patents, copyrights, and/or trademarks.
9. GOVERNMENT RIGHTS: The Government has unlimited rights in all co-developed software and hardware and other products developed under this contract with Government-funding. In addition the Government has limited rights in all "contractor-pre-developed software and hardware."
10. ANTICIPATED USES OF THE GOVERNMENT'S LIMITED RIGHTS:

The Government anticipates implementing the software, hardware, and other products, if any, developed under this contract effort to determine the optimum gate-to-blade relation for Kaplan turbines in the Federal hydropower installations within the continental United States.
11. DEFINITIONS:

"Limited rights" as used in this clause means the right of the Government to use, reproduce and distribute the object module of the software to any Federal hydropower installation within the continental United States. This does not include source code.

"Unlimited rights" as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.