



**Lockheed Idaho Technologies Company**  
P. O. Box 1625 Idaho Falls, ID 83415

LEASE AGREEMENT  
BETWEEN  
CITY OF RIGBY  
AND  
LOCKHEED IDAHO TECHNOLOGIES COMPANY  
FOR  
INEL BUS PARKING FACILITY  
IN  
RIGBY, IDAHO

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THIS LEASE, entered into the first day of April, 1996 by and between the City of Rigby whose business address is 158 West Fremont, Rigby, Idaho 83442 (hereinafter called the "Landlord"), and LOCKHEED IDAHO TECHNOLOGIES COMPANY (hereinafter called the "Tenant"), an Idaho corporation with operation offices in Idaho Falls, Idaho, acting under its Contract No. DE-AC07-94ID13223 with the United States of America, represented by the United States Department of Energy (called "DOE" or the "Government");

W I T N E S S E T H      T H A T

The parties hereto, for the considerations hereinafter set forth, covenant and agree as follows:

ARTICLE 1 - BASIC LEASE PROVISIONS

The following is a summary of certain lease provisions which are a part of, and in certain instances, are referred to in more detail in subsequent articles of this lease. The content of this article shall not prevail against the content of articles to follow:

- a. LANDLORD: City of Rigby
- b. TENANT: Lockheed Idaho Technologies Company (LITCO)
- c. SIZE OF PREMISES:  
The size of the premise will be large enough to accommodate the requirements outlined in Article 2 for the Rigby Bus Lot.
- d. TERM: One year term (April 1, 1996 through March 31, 1997) with four one-year options.
- e. RENT: \$200.00 per month payable, in arrears, at the beginning of each month.

ARTICLE 2 - DESCRIPTION OF PREMISES

Land situated in Jefferson County described below as:

Commencing at a point 2 rods North of the Southeast corner of the Southeast quarter of Section Thirteen (13) in Township 4 North Range 38 East Boise

Meridian, and running thence West 500 feet, thence North 200 feet, thence East 470 feet, thence North 200 feet, thence East 30 feet; thence South 400 feet to the place of beginning.

The area described above contains approximately two acres.

ARTICLE 3 - TITLE

The Landlord warrants it has title to the property covered by this Lease, or sufficient interest and rights in the property to guarantee the Lease Agreement with no interference to the Tenant's rights of possession under the Lease. Should the Tenant suffer any damages or expenses as the result of any defect in the Landlord's title or rights and interests in the property, the Landlord shall reimburse the Tenant for all such damages or expenses.

ARTICLE 4 - APPLICABLE CODES AND ORDINANCES

The Landlord, as part of the rental consideration, agrees to comply with all codes and ordinances applicable to the ownership and establishment of the premises at its own expense, to obtain all necessary permits and related items. The Tenant agrees to comply with all codes and ordinances applicable to its tenancy and use of the said premises.

ARTICLE 5 - TERM OF LEASE AND EXTENSION

TO HAVE AND TO HOLD the above premises with their appurtenances for the term of one year beginning April 1, 1996 and ending at midnight March 31, 1997 provided that this Lease may, at the option of the Tenant or the Government, be renewed for a period not to exceed four one-year renewal terms at the rental rate specified in the following Article 6 and under the terms and conditions specified herein, provided notice be given in writing to the Landlord at least thirty (30) days before this Lease or any renewal thereof would otherwise expire, that the option is exercised. Payment by Tenant and acceptance of payment by Landlord of the first months rent for the option renewal term shall constitute exercise of the renewal option irrespective of timely submittal by Tenant of notice to renew.

ARTICLE 6 - RENTAL PAYMENTS

- A. The Tenant will pay the Landlord rent at the monthly rate of \$200.00 commencing with the effective date of this Lease.
- B. For the four one-year options, the Tenant will pay the Landlord at the monthly rate of \$200.00.
- C. All rental payments under this Lease will be made by the Tenant on a monthly basis, beginning at the end of the first calendar month of the Lease term, without submission of invoices or vouchers.

In addition to the monthly rate a lump sum amount of \$2,500.00 will be paid for improvements performed to the leased property as a result of the INEL's use of the property. The lump sum amount will be paid in October 1996.

ARTICLE 7 - AVAILABILITY OF FUNDS

The Tenant's obligation hereunder is contingent upon the availability of appropriated funds from the United States Congress from which payment for the Lease purposes can be made. No legal liability on the part of the Tenant or the Government for payment of any money shall arise unless and until the funds are made available to the Tenant.

ARTICLE 8 - CANCELLATION

The Tenant and Landlord each shall have the right to cancel the lease at any time during the firm term of the contract or during the option term, upon 60 days written notice, and without penalty of any kind.

ARTICLE 9 - TAXES, UTILITIES AND BUILDING SERVICES

The Landlord shall pay all real estate taxes which may be assessed against the premises leased hereunder during the term of the lease.

ARTICLE 10 - MAINTENANCE OF PREMISES

Responsibility for maintenance will be as follows:

	<u>Landlord</u>	<u>Tenant</u>
Parking Lot Maintenance	X	
Garbage Service		X
Utilities	X	
Snow Removal	X	

Parking Lot Maintenance includes cost associated with (a) maintaining the leased premises in good condition, (b) grading, and (c) providing gravel as reasonably required for use as provided herein. Further expansion of lighting of the premises will be at Tenant's expense. However, the Landlord will continue to have the responsibility for the utilities associated with all lighting.

ARTICLE 11 - FAILURE IN PERFORMANCE

In the event of failure by the Landlord to provide any obligation, service, utility, or repairs required of it under this Lease within a reasonable time after written notice to the Landlord, the Tenant shall have the right to secure said obligations, services, utilities, or repairs and shall deduct the cost thereof from rental payments.

ARTICLE 12 - HAZARDOUS SUBSTANCES

Landlord will indemnify and hold harmless Tenant, DOE and the federal government from all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, all sums paid for settlement of claims, attorneys fees, consultant and expert fees) arising during or after the lease term form or in connection with the presence of hazardous substances in or on the premises from the action or inaction of Landlord or its agents, officers, or employees. This indemnification includes, but is not limited to, any costs

incurred due to any investigation of the site or any cleanup, removal, or restoration mandated by federal, state, or local agency or political subdivision. This indemnification specifically includes all costs due to hazardous substances that flow, diffuse, migrate or percolate into, onto, or under the premises after the lease term commences. hazardous substances, as used in this article, include those substances within the definition for hazardous substance under CERCLA at 40 C.F.R. 300.5. The Landlord shall remove or otherwise dispose of such hazardous substances in accordance with all federal, state and local laws, regulations and ordinances.

If Landlord violates any of the provisions of this article, Tenant, at its sole option, may elect any of the following remedies and such remedies are not mutually exclusive. Tenant may require removal of any hazardous substance and restoration of the leased premises solely at Landlord's expense. Tenant may elect to vacate the premises and any contrary provision in this lease notwithstanding, no further rents are due after the date Tenant vacates the premises. Tenant may also elect to remain in the leased premises and withhold payment of rent until all hazardous substances have been removed and the leased premises have been fully restored to their condition prior to removal, all at Landlord's expense. Tenant is also entitled to a reduction in rent in proportion to any portion of the leased premises that are made in rent in proportion to any portion of the leased premises that are made untenable for occupancy as a result of the presence of hazardous substances, during their removal, or during restoration of the premises.

#### ARTICLE 13 - INSURANCE

It is agreed that the Landlord and Tenant shall respectively obtain whatever insurance that they may consider prudent and necessary to protect their respective and separate best interests and that neither party shall be obliged to obtain insurance as regards the other party's real or personal property; Provided, however, that this provision shall not be construed as a waiver of any rights or subrogation or entitlements in law by either party.

#### ARTICLE 14 - ALTERATIONS

- A. The Tenant shall have the right, during the term of this Lease, to make alterations or modifications and said alterations or modifications shall be and remain the property of the Tenant or the Government as the case may be, and may be removed there from by the Tenant prior to the expiration of this Lease. At the option of the Tenant, such improvements may be left upon the premises upon termination or expiration of the term or extended term of this Lease; in which case, such improvements shall become the property of the Landlord. In the event the improvements are removed by the Tenant, the Tenant agrees to restore the premises to the condition in which they were prior to the installation, reasonable wear and tear accepted. Plans for structural change shall be submitted to the Landlord for approval, which approval shall not be unreasonably withheld.
- B. Title to property of the United States Government shall not be

affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

- C. Should major capital alterations or modification be desired by mutual agreement, these may be installed by the landlord and a new rental rate shall be negotiated to cover the cost of installation.

ARTICLE 15 - ASSIGNMENT AND/OR SUBLEASING

The Tenant shall have the right, at any time, to assign or sublet the premises hereby leased or any part thereof to the Government or the Government's designee without the consent of the Landlord, and upon such assignment, DOE will guarantee payments hereunder.

ARTICLE 16 - ADMINISTRATION

- A. The Landlord agrees, unless the Tenant is otherwise notified in writing, that Doug Nelson, City Public Works Director and/or his duly authorized representative will have overall responsibility and authority under the Lease, and unless a change in assignment is made by the Landlord, he and/or his duly authorized representative will be available at all reasonable times in connection herewith.
- B. It is agreed that , unless the Landlord is otherwise notified in writing, Tenant's responsibilities under this Lease shall be administered by the Manager, Service Acquisitions of Lockheed Martin Idaho Technologies and/or his duly authorized representative, who is Glenn Clemons.

ARTICLE 17 - NOTICES

Any notice or order given under the terms of this Lease shall be considered as having been given:

- A. To the Tenant, if delivered personally to the designated representative of the Manager, Service Acquisitions, or if mailed by U.S. Mail, certified letter return receipt requested, addressed to Lockheed Martin Idaho Technologies, Manager, Service Acquisitions, PO Box 1625, Idaho Falls, Idaho 83415-3521.
- B. To the Landlord, if delivered personally to its duly authorized representative at the City of Rigby or if mailed by U.S. Mail, addressed to City of Rigby, 158 West Fremont Avenue, Rigby, ID 83442.

ARTICLE 18 - COVENANT AGAINST CONTINGENT FEES

The Landlord warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Landlord for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Lease without liability or in its discretion to deduct from the rental price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee. (Licensed real estate agents or brokers having listings on property for rent, in accordance with general business practice, and who have not obtained such licenses for the general business practice, and who have not obtained such licenses for the sole purpose of effecting this Lease, may be considered as bona fide employees or agencies within the exception contained in this article).

ARTICLE 19 - OFFICIAL NOT TO BENEFIT

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Lease if made with a corporation for its general benefit.

ARTICLE 20 - EXAMINATION OF RECORDS BY THE COMPTROLLER GENERAL

- A. The Landlord agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under this Lease or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Parts 1-10, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Landlord involving transactions related to this Lease.
- B. The Landlord further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Parts 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract" as used in this article excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts of purchase orders for public utility services at rates established for uniform applicability to the general public.

- C. The periods of access and examination described in A. and B., above, for records which relate to (1) appeals under the "Disputes" article of this Lease, and (2) litigation or the settlement of claims arising out of the performance of this Lease, or (3) costs and expenses of this Lease as to which exception has been taken by the Controller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims or exceptions have been disposed of.
- D. Nothing in this Lease shall be deemed to preclude an audit by the General Accounting Office of any transaction under this Lease.

ARTICLE 21 - LANDLORD'S SUCCESSORS

The terms and provisions of this Lease and the conditions herein shall bind the Landlord, and the Landlord's heirs, executors, administrators, successors, and assigns.

ARTICLE 22 - DISPUTES

- A. The parties agree that the appropriate forum for resolution of any dispute of claim pertaining to this Lease shall be a court of competent jurisdiction as follows:
  - 1. Subject to paragraph (a) (2) of this clause, any such litigation shall be brought and prosecuted exclusively in Federal District Court; with venue in the United States District Court for the District of Idaho in Pocatello, Idaho.
  - 2. Provided, however, that in the event that the requirements for jurisdiction in any Federal District Court are not present, such litigation shall be brought in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, with venue in the District Court of the Seventh Judicial District for the District of Idaho in Idaho Falls, ID.
- B. Any substantive issue of law in such dispute, claim, or litigation shall be determined in accordance with the body of law applicable to procurement of goods and services by the Federal Government. Nothing in this clause shall grant to the Landlord by implication any statutory rights or remedies not expressly set forth in this Lease.
- C. There shall be no interruption of this Lease during the pendency of any dispute that may arise between the parties hereto or between the Landlord and its subcontractors in support of this Lease.
- D. The Contract Disputes Act of 1978 (41 U.S.C. Sections 601-610) shall not apply to this Lease provided, however, that nothing in this clause shall prohibit Tenant, in its sole discretion, from sponsoring a claim of the Landlord for resolution under the

provisions of its prime contract with DOE. In the event that Tenant so sponsors a claim at the request of the Landlord, the Landlord shall be bound by the decision of the cognizant DOE contracting officer to the same extent and in the same manner as the Tenant.

ARTICLE 24 - FORCE MAJEURE

If either Landlord or Tenant is delayed, hindered or prevented from performing any act required under this Lease because of acts of God, failure or utility power, riots, civil commotion, insurrection, war, or other reasons not the fault of the party delayed, hindered or prevented, and is beyond their control (financial inability excepted), performance of the action in question is excused for the period of delay and the period for performance of such act is extended for a period equivalent to the period of the delay.

ARTICLE 25 - ARTICLES INCORPORATED BY REFERENCE

The following Federal Acquisition Regulation (FAR) clauses, Department of Energy Acquisition Regulation (DEAR) clauses, and Federal Acts are incorporated herein by reference.

1. Clean Air and Water, FAR 52.223-2 (\$100,000)
2. Affirmative Action for Handicapped Workers, FAR 52.222-36
3. Affirmative Action for Special Disabled and Vietnam Era Veterans FAR 52.222-35 (10,000)
4. Utilization of Small Business concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, FAR 52.219-8
5. Utilization of Women-Owned Small Businesses, FAR 52.219-13
6. Limitation on Payments to Influence Certain Federal Transactions (Jan. 1990) - FAR 52.203-12 (\$100,000).
7. Architectural Barriers Act
8. Randolph-Sheppard Act

LANDLORD

By *Dale H. Hall*  
 Title *Mayor*  
 Date *4/2/96*

TENANT

By *Steen Clemens*  
 Title *Subcontract administrator*  
 Date *3/27/96*