

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FILED

JAN 27 1998

NANCY MAYER-WHITTINGTON, CLERK  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAYTHEON COMPANY, GENERAL  
MOTORS CORP. and H E HOLDINGS,  
INC.,

Defendants.

Civil No:

97 2397

Filed:

Entered: January 27, 1998

**FINAL JUDGMENT**

WHEREAS, plaintiff, the United States of America, filed its Complaint in this action on October 16, 1997, and plaintiff and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, plaintiff intends defendants to be required to preserve competition by:

(1) promptly divesting the second generation ("2nd Gen.") and third generation ("3rd Gen.") focal plane array ("FPA") business of Raytheon TI Systems ("RTIS") and the 2nd Gen. ground electro-optical ("EO") business of Hughes Aircraft Company's Sensors and Communications System Segment; (2) establishing a firewall that prevents the flow of information concerning the

Follow-on-to-TOW ("FOTT") missile program between the RTIS Missile Systems Division ("RTIS Missiles") of Raytheon and any other part of Raytheon and between Hughes Missile Systems and any other part of Raytheon; and (3) incentivizing RTIS Missiles to pursue its bid through a joint venture with Lockheed Martin Corp. to ensure competition in bids for the FOTT missile;

AND WHEREAS, plaintiff requires defendants to make the divestitures for the purpose of establishing a viable competitor in the development, production, and sale of FPAs and ground EO systems, and to construct firewalls and incentivize RTIS Missiles for the purpose of preserving competition in bidding for the FOTT missile program;

AND WHEREAS, defendants have represented to the plaintiff that the divestitures ordered herein can and will be made and that the firewalls can be constructed and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture or firewall provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

#### I. JURISDICTION

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

## II. DEFINITIONS

As used in this Final Judgment:

- A. "A-Kit" means all components necessary to fit a B-Kit into a particular ground vehicle, including the optics, electronics, software, visual display, stabilization, and fire control as required.
- B. "B-Kit" means the common components for 2nd Gen. Forward Looking Infrared Systems ("FLIRs") designed under the HTI program, including SADA II integrated cooler/dewar detector assemblies, afocal assemblies, and associated electronics.
- C. "DoD" means the Department of Defense.
- D. "DoJ" means the Antitrust Division of the Department of Justice.
- E. "EO Business" means the 2nd Gen. ground EO business of Hughes operated out of the El Segundo, California and La Grange, Georgia facilities that produces A-Kits and B-Kits for ground vehicles and other applications, including the IBAS, M-1 TIS, LRASSS, and HTI programs, and all employees listed in confidential Attachment A, including:
  - a. all tangible assets used to produce A-Kits and B-Kits; all real property (owned or leased), including interests in the El Segundo, California and La Grange, Georgia facilities used to produce A-Kits and B-Kits, research and development activities, as identified pursuant to the Court's Hold Separate and Partition Plan Stipulation and Order; all manufacturing, personal property, inventory, office furniture, fixed assets and fixtures,

materials, supplies, on-site warehouses or storage facilities, and other tangible property or improvements used in the production of A-Kits and B-Kits; all licenses, permits and authorizations issued by any governmental organization relating to A-Kits and B-Kits; all contracts, teaming arrangements, agreements, leases, commitments and understandings pertaining to A-Kits and B-Kits; supply agreements; all customer lists and credit records; and other records maintained by Hughes in connection with the production of A-Kits and B-Kits;

- b. all intangible assets relating to the research, development, and production of A-Kits and B-Kits, including but not limited to a non-exclusive, transferable, royalty-free license to use all patents utilized by Hughes in the EO Business, licenses and sublicenses, intellectual property, technical information, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, and all manuals and technical information Hughes provides to its own employees, customers, suppliers, agents or licensees;
- c. all research data concerning historic and current research and development efforts relating to the production of A-Kits and B-Kits, including designs of experiments, and the results of unsuccessful designs and experiments;

- d. at the option of the purchasers, a supply contract for computer support services and information and communications services sufficient to support the EO Business over a period of one year; and
  - e. at the option of the purchaser, at the time of purchase, an option to purchase or lease an additional 10,000 square feet of manufacturing space for the EO Business in addition to the space set aside for the EO Business in the Hold Separate and Partition Plan and Order.
- F. "FOTT Information" means all information relating to the FOTT Program, including but not limited to, information relating to any and all proposals, technology, cost data, suppliers, designs, plans, test results, specifications, pricing, technical interface with IBAS and ITAS or other sensitive competitive information. FOTT Information shall be stamped as "Confidential and Competition Sensitive."
- G. "FOTT Program" means the Follow-on-to-TOW missile program, for which the Hughes FOTT Team and the TI/Martin Javelin Joint Venture (as defined below) will be competing for the Engineering Manufacturing Development ("EMD") contract, scheduled to be awarded by the United States Army in 1998.
- H. "FPA" means a matrix of detectors or pixels made of material that is sensitive to infrared ("IR") radiation, which is mated to a silicon processor and used to detect and analyze IR radiation.
- I. "FPA Business" means the 2nd Gen. and 3rd Gen. scanning and staring IR detector businesses of RTIS operated out of the Semiconductor Building and the

Research West Building located at the Expressway site in Dallas, Texas, including all dewar and cryogenic cooler manufacturing and dewar and cryogenic cooler assembly (except for RTIS' uncooled FPA Business), and including all employees listed in confidential Attachment B, including:

- a. all tangible assets used to produce scanning IR detectors, including SADA detectors, staring detectors, dewars, and cryogenic coolers, including, but not limited to, all real property (owned or leased), including interests in the Dallas facilities, used in the operation of the RTIS FPA Business, including research and development activities, as identified pursuant to the Court's Hold Separate and Partition Plan Stipulation and Order; all manufacturing, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies, on-site warehouses or storage facilities, and other tangible property or improvements used in the operation of the RTIS FPA Business; all licenses, permits and authorizations issued by any governmental organization relating to the RTIS FPA Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings pertaining to the RTIS FPA Business and its operations; supply agreements; all customer lists and credit records; and other records maintained by Raytheon in connection with the RTIS FPA Business;
- b. all intangible assets relating to the RTIS FPA Business, including but not limited to all patents, licenses and sublicenses, intellectual property, maskwork rights, technical information, know-how, trade secrets,

drawings, blueprints, designs, design protocols, cell libraries, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, and all manuals and technical information Raytheon provides to its own employees, customers, suppliers, agents or licensees, except that the purchaser shall agree to grant to the seller a non-exclusive, transferable, royalty-free license for any invention disclosed in U.S. Patent No.

5,274,578; and any inventions disclosed in U.S. Patent Applications Nos. 08/474,229, 08/097,522, 08/478,570 and 08/487,820 and Provisional Patent Application No. 60/014, 812; and

- c. all research data concerning historic and current research and development efforts relating to the RTIS FPA Business, including designs of experiments, and the results of unsuccessful designs and experiments.
- J. "HTI" means the Horizontal Technology Integration program to develop a common B-Kit to be used on different ground vehicle platforms.
- K. "Hughes" means Hughes Aircraft Company, an indirect subsidiary of General Motors Corp., with its headquarters in Arlington, Virginia, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnership and joint ventures, and directors, officers, managers, agents, and employees.
- L. "Hughes FOTT Team" means all Hughes Missile Systems managers and employees who have been assigned to or consulted in connection with the FOTT program.

- M. "IBAS" means the Integrated Bradley Acquisition System, a program to upgrade the sights on a Bradley Fighting Vehicle.
- N. "ITAS" means the Improved Target Acquisition System, a program to improve TOW missile launching capabilities.
- O. "LRASSS" means the Long-Range Advanced Scout Surveillance System, a future surveillance system to be mounted on light ground vehicles.
- P. "M1-TIS" means the Thermal Imaging System for the M1 Abrams tank.
- Q. "Raytheon" means Raytheon Company, a Delaware corporation with its headquarters and principal place of business in Lexington, Massachusetts, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.
- R. "RTIS" means Raytheon TI Systems, Inc.
- S. "RTIS FOTT team" means Mr. Lawrence Schmidt, all RTIS managers and employees of the TI/Martin Javelin Joint Venture, and all other RTIS employees who have been assigned to or consulted in connection with the FOTT program. One attorney in the General Counsel's Office of Raytheon, to be designated by Raytheon, shall be deemed a member of the RTIS FOTT Team and may be consulted for the purpose of obtaining legal or regulatory advice, but shall not receive FOTT Information concerning pricing or other bid information.



- T. "SADA" means the Standardized Advanced Dewar Assembly and consists of a scanning FPA mounted in an evacuated dewar. The SADA program is an effort by the United States Army to develop a family of IR detectors that can be used in a variety of battlefield systems.
- U. "TI/Martin Javelin Joint Venture" means the joint venture between Texas Instruments a/k/a RTIS and Lockheed Martin, which will be a competitor for the FOTT Program.
- V. "Uncooled FPA Business" means the technology, production equipment, and all tangible and intangible assets used by RTIS solely in the production of uncooled FPAs.

### III. APPLICABILITY

A. The provisions of this Final Judgment apply to Raytheon, its successors and assigns, their subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Raytheon shall require, as a condition of the sale or other disposition of all or substantially all of its assets or of a lesser business unit that includes Raytheon's business of developing and producing FPAs and ground EO Systems, that the transferee agree to be bound by the provisions of this Final Judgment.

### IV. DIVESTITURE

A. Raytheon is hereby ordered and directed in accordance with the terms of this Final Judgment, within one-hundred and eighty (180) calendar days after October 3, 1997 or five (5)

days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the FPA Business and the EO Business to an acquirer(s) acceptable to DoJ and DoD in their sole discretion.

B. Raytheon shall use its best efforts to accomplish the divestitures as expeditiously and timely as possible. DoJ in its sole determination, in consultation with DoD, may extend the time period for any divestitures for an additional period of time not to exceed thirty (30) calendar days.

C. In accomplishing the divestitures ordered by this Final Judgment, Raytheon promptly shall make known, by usual and customary means, the availability of the FPA Business and the EO Business described in this Final Judgment. Raytheon shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Raytheon shall also offer to furnish to all bona fide prospective purchasers, subject to customary confidentiality assurances, all information regarding the FPA Business and the EO Business customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Raytheon shall make available such information to DoJ at the same time that such information is made available to any other person.

D. Raytheon shall permit bona fide prospective purchasers of the FPA Business and the EO Business to have reasonable access to personnel and to make such inspection of the physical facilities of the FPA Business and EO Business and any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Raytheon shall not take any action that will impede in any way the operation of the FPA Business or the EO Business.

F. Unless both DoJ and DoD otherwise consent in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire FPA Business and the entire EO Business, operated in place pursuant to the Hold Separate and Partition Plan Stipulation and Order, and be accomplished by selling or otherwise conveying the FPA Business and the EO Business to a purchaser(s) in such a way as to satisfy DoJ and DoD, in their sole discretion, that the FPA Business and the EO Business can and will be used by the purchaser(s) as part of a viable, ongoing business or businesses engaged in the development, production, and sale of FPAs and ground EO systems. Divestiture of the FPA Business and the EO Business may be made to one or more purchasers provided that in each instance it is demonstrated to the sole satisfaction of DoJ and DoD that the FPA Business and EO Business will remain viable. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment, shall be made to a purchaser(s) who it is demonstrated to DoJ's and DoD's sole satisfaction: (1) has the capability and intent of competing effectively in the development, production and sale of FPAs or ground EO systems as the case may be; (2) has the managerial, operational, and financial capability to compete effectively in the development, production and sale of FPAs or ground EO systems as the case may be; (3) is eligible to receive applicable DoD security clearances; and (4) that none of the terms of any agreement between the purchaser and Raytheon give Raytheon the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere in the ability of the purchaser to compete effectively.

G. For a period of two years from the filing of the Complaint in this matter, Raytheon and Hughes shall not solicit to hire any individual who, on the date of the filing of the Complaint in this matter, was an employee of the FPA Business or the EO Business. For a period of two years from the filing of the Complaint in this matter, Raytheon and Hughes shall not hire any individual who, on the date of the filing of the Complaint in this matter, was an employee of the FPA Business or the EO Business unless such individual has a written offer of employment from a third party for a like position.

H. Raytheon shall comply with all agreements with DoD regarding the protection of information related to classified programs.

I. Raytheon shall not charge to DoD any costs directly or indirectly incurred in complying with this Final Judgment.

#### V. APPOINTMENT OF TRUSTEE

A. In the event that Raytheon has not divested the FPA Business and the EO Business within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by DoJ, in consultation with DoD, to effect the divestiture of the FPA Business and the EO Business.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the FPA Business described in Section II(I) and the EO Business described in Section II(E) of this Final Judgment. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and IX of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final

Judgment, the trustee shall have the power and authority to hire at the cost and expense of Raytheon any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser acceptable to DoJ and DoD, and shall have such other powers as this Court shall deem appropriate. Raytheon shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Raytheon must be conveyed in writing to DoJ and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. The trustee shall serve at the cost and expense of Raytheon, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Raytheon and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Raytheon shall use its best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to

be divested, and Raytheon shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Raytheon shall permit bona fide prospective acquirers of the assets to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the businesses to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to

be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by DoJ.

## VI. FIREWALL

A. Members of the RTIS FOTT Team are prohibited from giving or receiving, either directly or indirectly, any FOTT Information to or from the Hughes FOTT Team or any other Raytheon employee. Members of the Hughes FOTT Team are prohibited from giving or receiving, either directly or indirectly, any FOTT Information to or from the RTIS FOTT Team or any other Raytheon employee. To implement this provision, Raytheon is required to construct a firewall within Raytheon that prevents the flow of FOTT Information between the RTIS FOTT Team and any other segment or official of Raytheon. Raytheon is also required to construct a firewall within Raytheon that prevents the flow of any FOTT Information between the Hughes FOTT Team and any other segment or official of Raytheon. These firewalls are intended to ensure competition between RTIS Missiles and Hughes Missile Systems in bidding on the FOTT Program. Raytheon shall, within five (5) business days of its signing the Stipulation and Order consenting to the entry of this Final Judgment, submit to DoJ and DoD a document setting forth in detail its procedures to effect compliance with this provision. DoJ and DoD shall have the sole discretion to approve Raytheon's compliance plan and shall notify Raytheon within three (3) business days whether they approve of or reject Raytheon's compliance plan. In the event that Raytheon's compliance plan is rejected, the reasons for the rejection shall be provided to Raytheon by DoJ and Raytheon shall be given the opportunity to submit, within two (2) business

days of receiving the notice of rejection, a revised compliance plan. If the parties cannot agree on a compliance plan within an additional three (3) business days, a plan will be devised by DoD and implemented by Raytheon. All Raytheon employees shall abide by the provisions of the compliance plan. The prohibitions in this paragraph shall remain in effect until final determination of the EMD contract award for the FOTT Program is made by DoD. Raytheon shall use all reasonable efforts to submit a competitive bid by the RTIS FOTT Team for the FOTT Program.

B. Raytheon shall delegate to Mr. Lawrence Schmidt, Senior Vice President, Missile Systems Division of RTIS, in his sole discretion, the right to review and determine on behalf of Raytheon all matters relating to the TI/Martin Javelin Joint Venture bid, including any best and final offer and responses to any inquiry from DoD, on the FOTT Program; to invest Raytheon's funds in the FOTT Program; and to draw on other resources within RTIS Missiles to compete for the FOTT Program.

C. Raytheon shall provide an economic incentive to the RTIS management personnel of the TI/Martin Javelin Joint Venture to ensure all reasonable efforts will be made by Raytheon to submit a competitive bid by the TI/Martin Javelin Joint Venture for the FOTT Program. As an incentive to win the FOTT Program, Raytheon shall pay, conditioned solely upon the TI/Martin Javelin Joint Venture being awarded the EMD contract for the FOTT Program, bonuses to certain RTIS Missiles employees. Each employee to receive a bonus upon award of the EMD contract for the FOTT Program and the amount of each applicable bonus is listed in confidential Attachment "C."



D. Raytheon shall notify and train all RTIS Missiles, Hughes Missile Systems, and other Raytheon employees likely to see FOTT Information regarding the restrictions on FOTT Information and require that all such employees sign a statement acknowledging the restrictions on the FOTT Information. In addition, all RTIS Missiles employees having access to FOTT Information must sign a certification stating that they understand the restrictions of the firewall and agree to adhere to the firewall restrictions.

## VII. NOTIFICATION

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Sections IV or V of this Final Judgment, Raytheon or the trustee, whichever is then responsible for effecting the divestitures, shall notify DoJ and DoD of the proposed divestitures. If the trustee is responsible, it shall similarly notify Raytheon. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the businesses to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by DoJ and DoD of such notice, DoJ, in consultation with DoD, may request from Raytheon, the proposed purchaser, or any other third party additional information concerning the proposed divestitures and the proposed purchaser. Raytheon and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after DoJ has been provided the additional

information requested from Raytheon, the proposed purchaser, and any third party, whichever is later, DoJ and DoD shall each provide written notice to Raytheon and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If DoJ and DoD provide written notice to Raytheon and the trustee that they do not object, then the divestiture may be consummated, subject only to Raytheon's limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that DoJ and DoD do not object to the proposed purchaser or upon objection by DoJ or DoD, a divestiture proposed under Section IV or Section V may not be consummated. Upon objection by Raytheon under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

#### VIII. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed whether pursuant to Section IV or Section V of this Final Judgment, Raytheon shall deliver to DoJ and DoD an affidavit as to the fact and manner of compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include, inter alia, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that Raytheon has taken to solicit a buyer for the relevant assets and to provide required information to prospective purchasers including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and

complete, any objection by DoJ to information provided by Raytheon, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Raytheon shall deliver to DoJ and DoD an affidavit which describes in detail all actions Raytheon has taken and all steps Raytheon has implemented on an on-going basis to comply with the firewall provisions pursuant to Section VI of this Final Judgment and to preserve the FPA Business and the EO Business pursuant to Section IX of this Final Judgment and the Hold Separate and Partition Order entered by the Court. The affidavit also shall describe, but not be limited to, Raytheon's efforts to maintain and operate the FPA Business and the EO Business as an active competitor, maintain the management, staffing, research and development activities, sales, marketing and pricing of the FPA Business and the EO Business, and maintain the FPA Business and the EO Business in operable condition at current capacity configurations. Raytheon shall deliver to DoJ and DoD an affidavit describing any changes to the efforts and actions outlined in Raytheon's earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, Raytheon shall preserve all records of all efforts made to preserve the business to be divested and effect the divestitures.

#### IX. HOLD SEPARATE ORDER

Until the divestitures required by the Final Judgment have been accomplished, Raytheon shall take all steps necessary to comply with the Hold Separate and Partition Plan Stipulation and Order entered by this Court and to preserve the assets of the FPA Business and the EO Business. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

## X. FINANCING

Raytheon is ordered and directed not to finance all or any part of any purchase by an acquirer(s) made pursuant to Sections IV or V of this Final Judgment.

## XI. COMPLIANCE INSPECTION

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Raytheon made to its principal offices, shall be permitted:

1. Access during office hours of Raytheon to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Raytheon, who may have counsel present, relating to the matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and
2. Subject to the reasonable convenience of Raytheon and without restraint or interference from it, to interview, either informally or on the record, its officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to Raytheon's principal offices, Raytheon shall

submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment and the Hold Separate and Partition Order.

C. No information or documents obtained by the means provided in Sections VIII or XI of this Final Judgment shall be divulged by a representative of the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Raytheon to DoJ or DoD, Raytheon represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Raytheon marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) calendar days notice shall be given by DoJ or DoD to Raytheon prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Raytheon is not a party.

## XII. RETENTION OF JURISDICTION

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

### XIII. TERMINATION

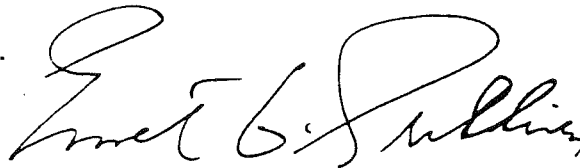
Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

### XIV. PUBLIC INTEREST

Entry of this Final Judgment is in the public interest. See Citizens for a Better Environment v. Gorsuch, 718 F.2d 1117 (D.C. Cir. 1983), and it is further

ORDERED that while this Court retains jurisdiction over this case, the case shall be removed from the active calendar of the Court.

Dated January 27, 1998.

A handwritten signature in cursive script, appearing to read "Ernest B. Sullivan", written over a horizontal line.

United States District Judge

Parties Entitled to Notice of Entry of Order:

United States of America  
Department of Justice Antitrust Division  
J. Robert Kramer II, Esq.  
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Counsel for HE Holdings, Inc.  
and General Motors Corp.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

RAYTHEON COMPANY, GENERAL  
MOTORS CORP. and HE HOLDINGS,  
INC.,

Defendants.

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Civil No:

97-2397

Filed:

Entered: January 27, 1998

**FILED**

JAN 27 1998

NANCY MAYER-WHITTINGTON, CLERK  
U.S. DISTRICT COURT

**ATTACHMENTS TO FINAL JUDGMENT**

To be filed under seal