

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 052588
Date: 17-Feb-1993 03:38pm EST
From: Kevin Hartley @COP
HARTLEY.KEVIN AT A1 at GRANPA
Dept: Law Dept
Tel No: DTN 339-5160

TO: See Below

Subject: ARINC

You may find the attached memo useful as you prepare for your Friday meeting with Andy Hospodor.

Also, we learned that ARINC had a kick-off meeting today with CSC. It appears ARINC plans to have CSC take over the project in conjunction with Tandem Computers. A key component of the kick-off was the approach to the audit of the Digital work in progress - all the more reason to be cautious about the audit.

ARINC approached two of Digital's contract personnel working on this project to inquire if they would work with CSC/Tandem. Both contract personnel declined of their own volition.

Please feel free to call me if I can provide any additional data.

Regards and good luck!

Kevin

Distribution:

TO: Alan Croll @COP
TO: Al Hall @COP
TO: Russ Gullotti @MKO

CC: Lynn Busing @ALF
CC: Rich Alpert @MSO
CC: Bill OBrien @MSO
CC: Thomas Grilk @MRO

SUGGESTED TALKING POINTS/OPTIONS
FOR 2/19/93 MEETING WITH ANDY HOSPODOR

1. Key Messages

- a. It remains our goal (not commitment) to ensure that ARINC receives the solution it desires and that Digital is justly compensated for its efforts. We cannot get there under the current relationship. The relationship much change - and we will make a proposal on how it can change - or the relationship must end.
- b. Digital's termination letter is not a bluff and we did not come to the decision to terminate lightly. Our decision was based on a thorough technical and legal analysis - both internal and external. We are comfortable that termination was justified.
- c. An audit by CSC in the current environment would be inappropriate. We are not prepared to disclose work in progress without assurances that we will be paid. We are prepared to give ARINC access to work in progress under the proposal identified below.

2. Valuation of Digital Work in Progress

There are several expense numbers which may form the basis for pricing Digital's "work in progress" for purposes of negotiation with ARINC (all items reflect Digital's costs without markup):

- a. total expenses of Digital to date on the project: \$3.7 million.
- b. total expenses post-TDM elimination (presumably this is work which ARINC would consider of value today): \$1.4 million.
- c. total expenses pre-TDM elimination (ARINC would likely not value most of this work, but Digital incurred the cost): \$2.3 million.
- d. An alternative approach would be to ask Andy specifically what work in progress he would like to have and we will get back to him with a price

3. Proposal to ARINC

A reasonable proposal would include the following elements:

- a. a price to ARINC for work in progress from 2, above;

- b. an offer to continue to work under a new contract on a T&M basis to, at ARINC's option, (1) complete all or any portion of the project, or (2) transition to an alternative vendor;
- c. we will make available on a T&M basis senior Digital engineers to do design work in whatever level of detail ARINC desires (as opposed to what we believe the current contract requires). We should determine if such engineering resources are available before making this commitment;
- d. If the parties are unable to reach an agreement at the meeting, we may wish to give Andy a deadline for a settlement so we do not have to keep our team intact indefinitely; and
- e. any proposal is subject to a final settlement agreement in which neither party admits fault and each is released of liability. In addition, we may want to insist as part of the settlement on a joint communication to the airline industry correcting any PR problem we may now have with our airline customers.

4. Mr. Hospodor's Possible Reactions and Suggested Responses

- a. Andy reacts heatedly ("Only ARINC can terminate. Digital must perform its fixed price contract")

Response: Digital has terminated the contract and was justified in doing so. Our objective is to see if there is any basis under a new relationship under which we can help ARINC achieve the networking solution it desires. We hope that Andy will be receptive to exploring options.

- b. Andy reiterates the statement in his 2/12/93 letter, i.e. ADNS II is ARINC's lifeblood, and analysis of all possible operational permutations is essential

Response: Analysis of all possible permutations is not required by the contract, economically feasible, or commercially reasonable for design documents of this type. Digital was prepared to model permutations reasonably likely to occur, but not not every conceivable permutation no matter how remote the possibility of its occurrence.

- c. Andy seeks to debate the details of our default letter

Response: The letter speaks for itself and Digital stands by it. We prefer to focus on the path forward (I recommend avoiding discussing the details of the default letter. It is likely to prove fruitless and ARINC could try to use those discussions as evidence later.)

- d. Andy states that Digital can't terminate, it must arbitrate

Response: We have terminated the contract and hope that we can resolve our differences amicably (it is likely that our decision to terminate is subject to arbitration if ARINC elects to initiate an arbitration proceeding. There is no need for us to feel threatened by the possibility of arbitration)

- e. Andy indicates that he won't pay for any work in progress until CSC has a chance to audit that work

Response: Absent an agreement that it will be paid, Digital will not make work in progress available to CSC or ARINC because to do so would necessarily disclose the proprietary technology for which Digital is entitled to be paid. Once such information is disclosed, ARINC would have no incentive to pay Digital. (It is our position that, were the contract still in effect, ARINC would not have the right to audit during the design phase in any event).

5. What is an Acceptable Settlement?

This is, of course, a business decision. From a legal perspective, the following would be acceptable, i.e. it wouldn't feel like we "left too much on the table" when balanced against our legal risks:

- a. ARINC agrees to pay us for all or some of the work in progress. Digital provides the work in progress for which it is paid to ARINC. Digital either does or does not continue working on a T&M basis. A settlement agreement and release is signed.
- b. ARINC agrees to sign a settlement agreement and release without getting any work in progress and without paying Digital anything. Presumably, this would only happen if ARINC has a change of heart and determines that Digital is in a strong position and might pursue its legal remedies. Would Digital be willing to forego any chance of recovering all or any portion of the \$3.5 million spent to date under this scenario?
- c. The parties agree to disagree and go their separate ways. ARINC does not get any work in progress. There is no settlement agreement and each party accepts the risk that the other might commence legal action against the other. Digital can then decide if it wishes to pursue damages via litigation/arbitration.

DIGITAL CONFIDENTIAL Document

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 052618
Date: 18-Feb-1993 10:03am EST
From: Kevin Hartley @COP
HARTLEY.KEVIN AT A1 at GRANPA
Dept: Law Dept
Tel No: DTN 339-5160

TO: See Below

Subject: ARINC - Design Documents and Key Contract Clauses

PRIVILEGED AND CONFIDENTIAL
PREPARED BY DIGITAL ATTORNEY

This memo includes two additional pieces of information that may assist you in preparing for the Friday meeting with Andy Hospodor:

1. A list of the design documents that constitute the "work in progress".

I pass this along FYI in the event Andy wants certain, but not all, work in progress. According to the Program Manager (Ben Burgis) it would be relatively easy to assign a price to each document. Of course, our risk in allowing Andy to "cherry pick" is that we will likely recover less total money for our work to date, and our leverage in negotiating a final settlement decreases. The design documents, and their status are as follows:

- o ADNS II Network Availability Prediction Report (APR) (Prelim)
- o ADNS II Network Design (Prelim)
- o SRS - SNCDF for 8208 Only Non-ATN Engineering Systems (Prelim)
- o SRS - P7 Message Storer (Prelim)
- o SRS - AVS Batching (Prelim)
- o SRS - General Ledger (Prelim)
- o SRS - NIPS Transaction Preprocessor (Prelim)
- o Program Management Plan (PMP) (Draft) *draft? you 2/18*
- o Quality Assurance Plan (QMP) (Final)
- o Software Development Plan (SDP) (Draft)
- o Configuration Management Plan (CMP) (Final)
- o Hardware Development Plan (HDP) (Draft)
- o System/Segment Specification (SSS) (Final)
- o Maintenance Support Plan (MSP) (Final)
- o Master Test Plan (MTP) (Prelim)
- o Training Plan (TP) (Prelim)
- o Master Installation Plan (MIP) (Prelim)
- o ADNSII Availability Model Document (AMD) (Prelim)

2. Key Contract Provisions

Russ, it is not my desire to bury you in ARINC materials. However, I understand you requested and have received a copy of the complete contract and wish to discuss it with me this evening. I look forward to talking to you; my home number is (301) 340-7362. I have summarized the key clauses below in an effort to save you review time:

- a. Basic Contract Obligation: The Statement of work specifies that "Digital shall be responsible for developing and implementing the ADNS II network design required to meet the functional and network performance requirements".
- b. Performance Measures: The Network Performance Requirements provided design parameters of throughput, network transit delay time, accessibility, data accuracy, etc. but not cost of operation.
- c. TDMs: The design was expressly based on Time Division Multiplexors (TDMs), which reduces the 30 multisecond time delays of packet-switches to 2 to 4 milliseconds.
- d. ARINC Standards: Block Change 1 is to be performed in accordance with ARINC Documentation Standards and ARINC Project Development Standards, which are largely borrowed from DOD 2167A, government requirements for development of custom software for Critical Military Systems.
- e. Acceptance: Several provisions give ARINC broad latitude to determine if deliverables comply with the Contract. E.g., (1) "work shall not be judged to be complete until all deliverables ... are in ARINC's judgment, in accordance with the requirements of this contract"; (2) "deficiencies [in deliverable documents] shall be redone in accordance with ARINC's comments and re-submitted"; (3) "Wherever possible, Digital will submit COTS documentation as long as this documentation contains all of the information requested by ARINC". ARINC may also identify "derived requirements" which should be included in documents by Digital.
- f. Changes: The contract allows ARINC to make changes in the specifications or designs subject to "an equitable adjustment" in price or delivery schedule during which Digital must perform toward the Contract as changed. Disputes are to be arbitrated.
- g. Remedies: There are two conflicting Remedies provisions. One, from ARINC's Standard Terms and Conditions, states that ARINC's Contract rights and remedies are "cumulative and in addition to any other rights and remedies provided by law and equity". The second, insisted upon by Digital and negotiated, states that the Contract remedies "are ARINC's exclusive remedies and are in lieu of any other remedy at law or equity" and further limits Digital's liability to ARINC "for any cause whatsoever" to the

lesser of \$5M or the purchase price paid to Digital [at this point, zero].

- h. Audit: There are several vague, conflicting clauses addressing ARINC's audit and inspection rights. It is unclear precisely what and when ARINC could audit under the contract.
- i. Testing of Traffic Permutations: The contract does not specify precisely what must be tested, and certainly does not specify unlimited testing. Digital must design to meet the functional specification, meet performance criteria, deliver specific reports, etc. in accordance with ARINC Standards. According to our outside technical consultant, ARINC's design testing requirements are extreme and do not comport with commercial reality. Even if Digital were to test every conceivable permutation in the design phase, such data would be of little value to ARINC because the results are based on existing traffic data. There is no way to predict with precision actual traffic data at the time of network operation several years in the future.
- j. Termination for Default: Either party may terminate if the other "fails to perform its material obligations under the Contract".
- k. Arbitration: Disputes are subject to arbitration at the election of either party.

Distribution:

TO: Alan Croll @COP
TO: Al Hall @COP
TO: Russ Gullotti @MKO

CC: Lynn Busing @ALF
CC: Rich Alpert @MSO
CC: Bill OBrien @MSO
CC: Thomas Grilk @MRO

DIGITAL CONFIDENTIAL Document

DIGITAL PERSONAL Document

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 052619
Date: 18-Feb-1993 02:47pm EST
From: ROGER LONGENBACH @MEL
LONGENBACH.ROGER AT A1 at GRAN
Dept: PROGRAM MGMT.
Tel No: DTN 439-5445 / (703) 876-5445

TO: Russ Gullotti @MKO

Subject: Personal

Russ,

Some Good NEWS. The program I have been working on since mid November has resulted in a commitment from MCI to spend some 9.6M with Digital over the next 15 months. The program is the MCI Call Center Integration effort. We received the Purchase Order yesterday for the full 9.6.

I understand that you are to meet with Andy Hospodor, CEO ARINC, tomorrow. I do not know which way Digital Management will go on this program, but I have kept somewhat involved since leaving the program on November 6. As a program manager I am concerned regarding the outcome of Digital's termination for ARINC default. But maybe not in the way one would expect.

Russ I spent 15 of my 20 years in Air Force Systems Command. I worked my way up to being a Program Manager for the Joint Surveillance System (a replacement of the SAGE/Buick air defense system), the North Warning System, and finally the Granite Sentry program -- a C3I upgrade to Cheyenne Mountain. During these years, I have watched the civilian contract community stand up and take legal action against other parties when it was warranted. Sometimes the action was taken to show the community that they would not be wrongly pushed around.

I believe it is time for Digital to stand up and not be pushed around by ARINC. I also know that this statement counters the Digital ingrained philosophy that the "customer is always right". In any business relationship, success is measured by a willingness of both parties to work together to resolve conflict and make the agreement a win for both parties. I believe ARINC's approach is and has become a win for ARINC -- lose for Digital.

For whatever reason, ARINC does not seem to understand that the agreement signed by Digital did not and does not give them the liberty to continuously "stick it to us". ARINC does not seem to understand that the contract, being fixed price, does not give them the right to demand more and more without having to pay for the services rendered.

I believe that after the Digital position is documented it will be found that Digital tried time and time again to satisfy ARINC

requirements. The fact that ARINC could not or would not define/scope the work they wanted and provide Digital objective performance criteria to achieve closure, indicates a naivete on their part with the contract/business agreement signed by both parties; as well as, a lack of understanding of the benefits in terms of price and time [lower price and less time] to them to field a system composed of Commerical-Off-The-Shelf (COTS) products. After many years, DoD finally realized the true costs of designing and developing military systems from scratch. I do not believe ARINC understands this difference.

Russ my gut tells me that for some unknown reason after the contract was signed, ARINC realized that what they asked for in the contract and what they truly wanted or needed had changed. Rather than acknowledging this fact and trying to work in a positive win-win scenario for both parties, ARINC management allowed their staff to tie the Digital team into knots by non-acceptance of the documents. Possibly with the hope that Digital would walk away from the contract quietly and without a fight.

After living ARINC from December 12 through November 6, knowing what I know, what we tried to do, what we were allowed to do, and what happened as a result, I can only suggest that Digital needs to stand firm in our belief that what Digital did was right, and if necessary take our position to court. To do less, will only hurt Digital's chances to gain ever increasing marketshare in Systems Integration.

In closing, I am not sure if you are aware that when ARINC cut NET, NET told ARINC that they would take legal action. The result, ARINC settled before legal action could be taken. I guess I started this whole saga in August when I submitted a MAYDAY report to the Southern States Region CPMO. If there is any animosity within Digital regarding this program and what has happened, it should be directed to me. I also hope that Digital realizes the education that ARINC has brought us.

Best of luck tomorrow.

Regards,

Roger

DIGITAL PERSONAL Document

Arinc Con Call 2/10/93

Rick alpert, de Hall, Kevin

\$ 3.5M Spent to date
2.2 Revenue for B.C. I

- we can do this network.
 - we did not expect to do eng. theory.
- they should have provided Statement of Needs not us
- "I want Arinc to succeed"
 - impossible under current circumstances.
 - if we stop you're hunting.
 - how can we do it?
- fallback position
 - we walk away as is.
 - limit on X system to CSC (a cap) ++M?
 - we own nothing
- when we want to be
 - 9 1/2 M for work done to date.
 - and/or time to X system to CSC.
- we're confident as well
 - external lawyers did a review of contract & we're confident

Re: Audit

what is purpose?

- find fault with us?
- take (free) our work?

when I agreed - desire was to move forward.

now I need to know why.

I thought once CSC saw the dilemma they'd feel you how impossible it was for us. I never

Arinc^{com} Call 2/15/93

Promise was based on what we had agreed to do. Not what evolved.

- Design for cost
- TDM Spec change

their actions make fulfilling the promise impossible.

we can deliver the network as contracted.

Arinc continued to add threads making combinations not acceptable to us.

~~Derived requirements~~

Reasonable to test some # paths but not reasonable to expect all paths

Project team Been held together.

Kevin proposal

① we have tested this with outside and inside counsel.

②

" Arinc wants a network
we want a different relationship. "

• tell us what you want Andy - we'll see it to you.

- walk away @ a release agreement with WIP.

Resources to do it the way Arinc wants it
done - tough job - only a few - sr.
engineers.

Who attends the meeting?

Chris Wargo / Andy / Allan Staff

Ben Stungis PM

Qs for arunc can call

My promise

Hospido memo to me.

Puma Conclusions

al visit - I can't

wants wed, thus a Fri

i n t e r o f f i c e m e m o

d | i | g | i | t | a | l

o: Dave Brown
Kevin Hartley

Date: 20-January-1993
From: John T. Puma
Dept: Systems Integration Support
NaC Technical Office
Ext : 264-1243
Loc : LKG1-2/A19
Net : ERLANG::PUMA

C: Tony Lauck
Elliot Gerberg
Mike Thurk
Larry Walker
Alan Croll

Subj: Fax & Statement of purpose for my involvement in the ARINC SI program

My involvement in the ARINC customer account was with the sole purpose of reviewing the technical quality of Digital's ARINC solution. During my involvement with the local account team I engaged central engineering resources to review several technical aspects of Digital's solution over the period from August 1992 through November 1992. During that time there were several meetings with the customer themselves. Attached (FAX only - to Dave Brown & Kevin Hartley) are copies of the correspondence sent between Mr. Joe Weis (ARINC) and myself between 15-October-1992 and 29-October-1992.

I hope this helps provide you with the documentation you and I spoke of yesterday. If there is anything else I can help with please do not hesitate to ask.

for arinc call

- ① "my promise"
- ② Puma memos OK -
read by all?
- ③ TXM from now on -
team still in place?

ARINC

AERONAUTICAL RADIO, INC.

2551 Riva Road
Annapolis, Maryland 21401-7465

October 15, 1992

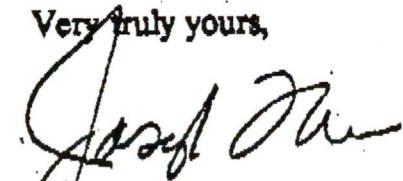
Mr. John T. Puma
Digital Equipment Corporation
NaC Liaison Office
Digital Drive
Post Office Box 9501
Merrimack, NH 03054

Dear John:

Thank you for the opportunity to meet with you, Elliot Gerberg, and Tony Laucke at ARINC on October 12. We appreciate your interest in gaining ARINC's insight while you are performing your internal engineering audit. We felt there were several good discussions regarding ARINC's view of current technical concerns and future technical challenges of the project. We also think that we had useful dialogue on what needs to take place from a technical perspective for a successful relationship between ARINC and Digital.

It was very encouraging to receive all of your candid feedback during the meeting. It was obvious that we share similar views on several issues involving the project including: 1. the lack of any requirements analysis performed by Digital; 2. the lack of a traceable systems design; and, 3. the lack of a top-down methodology employed. In addition, we were glad to hear you indicate that the issues are technical in nature and are not documentation related. We are hopeful that the feedback you provide Mr. Gullotti later this month will enable ARINC and Digital to complete the ADNS II design in a timely manner.

Very truly yours,



Joseph F. Weiss
Senior Director - Engineering

dr

Mr. John Puma
October 15, 1992
Page 2

cc: Roger Longenbach
Benjamin Burgis
Dave Brown
Andrew Hospodor
Allen Stam
David Harding
Robert Covell
Jerome Panagopoulos
Richard Jones
Jack Smith

om: MKOTS1::PUMA "NaC Tech. Office - Mgr. Systems Integration Support 20-Ja
1993 0923" 20-JAN-1993 09:24:19.74
ERLANG::PUMA

bj: ARINC Correspondence #1

om: CGHUB::PUMA "NaC Tech. Office - Mgr. Systems Integration Support 20-Oct
1992 1220" 20-OCT-1992 12:20:18.78

joan
me
bj: Joan - pls read and place on Digital letter head...

*** Digital/ARINC Confidential Engineering Notes ***

October 20, 1992

r. Joseph Weiss
ARINC - Aeronautical Radio, Inc.
Senior Director - Engineering
551 Riva Road
Annapolis, Maryland 21401-7465

ref: ARINC letter to John T. Puma dated October 12, 1992

Dear Joseph,

We want to express our appreciation for taking the time to meet with us on October 12. We found the discussion of the technical and project management issues to be valuable input to our engineering assessment. However, I would like to make a few clarifying points in reference to your letter dated October 13th. So there is no misunderstanding of intent allow me to give you my feedback on how I interpret the issues raised in your letter.

ARINC Stmt (per October 12th ARINC memo):

...1. the lack of any requirements analysis performed by Digital;

Digital response:

Digital central engineering expressed a concern about the clarity and appropriateness of some of the requirements.

Perhaps a more appropriate way of stating the agreement is that we agreed more work needs be done on requirements analysis;

ARINC Stmt (per October 12th ARINC memo):

...2. the lack of a traceable systems design;

Digital response:

With respect to system design, we agreed that a completed and traceable systems design does not exist. However, we added that is difficult to accomplish until some of

we have done some level of performance modeling. It was agreed that accomplishing this required Digital and ARINC to resolve some of what we believe to be the more important ambiguous and inconsistent requirements. As expressed by ARINC and agreed by Digital, these issues are common in any complex systems integration effort.

Furthermore, we have identified areas where improvements can be made to the methodology being used by the Digital team. We feel that these improvements will lead to a technically complete solution as well as a more realistic schedule and also bound the project in such a manner as to improve predictability (point 3 below).

ARINC Stmt (per October 12th ARINC memo):

...3. the lack of a top-down methodology employed.

Digital response:

Digital Central engineering has found room for improvement in this area and as discussed at the meeting we are working with Ben Burgis and the local implementation team in this regard. As a result improvements are already being made to the methodology being employed.

I hope this adds to the clarity around the issues we discussed on October 12th and contained in your October 15th memo to me.

I am hopeful that we are in agreement with the above statements. As I mentioned to you in our October 15th phone conversation, these and other issues are being aggressively addressed by Dave Brown, Alan Croll and Digital central engineering over the coming 2 weeks.

Please feel free to give me a call if there is a need to discuss these issues any further.

Very truly yours,

John T. Puma
Digital Equipment Corporation
NAC - Technical Office
Mgr. Systems Integration Support

ARINC

AERONAUTICAL RADIO, INC.

2551 Riva Road
Annapolis, Maryland 21401-7465

October 29, 1992

Mr. John T. Puma
DIGITAL Equipment Corporation
NaC Liaison Office
Digital Drive
Post Office Box 9501
Merrimack, NH 03054

Ref: (A) ARINC letter to John T. Puma dated October 15, 1992
(B) DEC letter to Joseph T. Weiss dated October 20, 1992

Dear John:

While your letter dated October 20, 1992 (Reference B) implicitly acknowledges our broad agreement on some of DIGITAL'S performance problems to date, I was surprised and disappointed to see you raise an issue about the clarity, consistency, and ambiguity of ARINC's requirements. This issue was not brought to our attention at the Landover meeting. I believe ARINC's requirements are clearly stated, appropriate, and have been visible to the Landover team since the start of the contract. We have continually run into the attitude at DIGITAL that questions ARINC's requirements and has several times required us to cite paragraph and verse to the questioning DIGITAL engineer before he would accept the requirement as fact. I sincerely hope that you are not re-opening that tactical ploy. The requirements, as baselined by DIGITAL in your systems specification review, are complete and immutable.

The key problem has been, as we agreed, the inability of DIGITAL to apply a structured systems engineering methodology in which those requirements are captured in the form of a fully traceable, responsive systems design.

In the last two weeks a potentially workable methodology (characterized by technical reviews, top-down requirements analysis and decomposition, traceability of design to requirements, etc.) now seems to be in use by the DIGITAL Landover team. However, we are disappointed that it has taken DIGITAL nearly two months to initiate this process since Mr. Hospodor last informed Mr. Gulotti of major technical execution problems which were evident in Landover. We also trust that you have clearly informed Mr. Gulotti that the problem with this effort is not "documentation" as glibly claimed

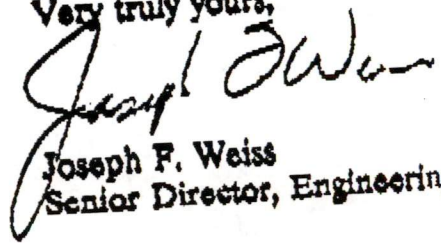
Mr. John T. Puma
October 29, 1992
Page 2

by your program manager during the August meeting. We and DIGITAL cannot afford to have your senior management so badly misinformed again on this program.

ARINC appreciates Central Engineering's involvement in a review of DIGITAL'S performance on our contract. Your analysis suggests that DIGITAL has the technical capability to perform under our contract, but DIGITAL simply has not applied the necessary resources to perform successfully. It is critical that DIGITAL'S management understand the necessity to commit technically competent personnel to continue their involvement with this contract on a day-to-day basis to ensure that it is performed. If this means moving the focus of activity from the Landover Sales Office to a place where necessary DIGITAL technical resources are available, DIGITAL should propose such a move.

I hope this response to your letter clarifies the issues affecting both of our firms. If you have specific questions relating to the requirements, I would appreciate the opportunity to address them. I am sure that I can answer any issues you may have.

Very truly yours,


Joseph F. Weiss
Senior Director, Engineering

dr

- cc: Roger Longenbach
- Benjamin Burgis
- Dave Brown
- Andrew Hospodor
- Allen Stam
- David Harding
- Robert Covell
- Richard Jones

February 9, 1993

Andrew T. Hospodor
Chairman and Chief Executive Officer
Aeronautical Radio Inc.
2551 Riva Road
Annapolis, MD 21401

Dear Andy:

I am responding to your February 3, 1993 letter to Bob Palmer, in which you invite discussion of how Digital can "cure its performance shortcomings".

Andy, as you know, I, as well as Al Hall and others at Digital, have always been happy to discuss how best to provide ARINC with its ADNS II network. You and I have had a number of amicable conversations in that regard. However, it is clear that we view very differently what went wrong with this project, for I fully share the views expressed in Al Hall's letter to you of February 1. Nevertheless, I agree with you that we need to try to move forward.

While we could discuss at length either ARINC's fault or "Digital's performance shortcomings", that would not be constructive. I propose that we now focus on the best way to achieve a mutually satisfactory resolution of the current situation.

Please let me know if you concur. If so, I will arrange for the appropriate conversations to occur without delay. I look forward to a positive resolution.

Sincerely,

Russ Gullotti
Vice President, U.S. Area

CC: Al Hall
Bob Palmer

ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

February 12, 1993

Mr. Russ Gullotti
Vice President, U.S. Area
Digital Equipment Corporation
Digital Drive
Merrimack, New Hampshire 03050-4303

Dear Russ:

Andrew T. Hospodor
Chairman and
Chief Executive Officer

Your letter of 9 February does not respond to two of the main points in my letter to Bob Palmer. Do I still have your personal promise to complete the contract successfully? Are you prepared to go the route of hiring another contractor to fill in for the Digital team's still-visible shortcomings? On this second point, I would like you to thoughtfully reconsider the earlier conclusions of John Puma.

One last point. Although I do not want to get into an argument with you over the content of Al Hall's letter (in which you regrettably concur), there is one paragraph that I find particularly enlightening:

"For example, it is hardly consistent with contract purpose or spirit for ARINC to insist on excruciating detail for all possible combinations and permutations of operational scenarios detailing all possible paths and subpaths for message traffic traversing the network."

This one sentence puts in clear focus the sharp differences between our organizational approaches. ADNS II is our lifeblood; it is the future of ARINC. If we do not insist upon analysis and test of most of these combinations, how else would you or we know that the system worked? . . . wait until it failed and then patch it in the field? . . . with our airline customers and the FAA screaming bloody murder?

Mr. Russ Gullotti
February 12, 1993
Page 2

I'd like to find a satisfactory resolution. I can be free Wednesday, Thursday, or Friday next week and would be happy to host your visit to Annapolis.

Very truly yours,



I N T E R O F F I C E M E M O R A N D U M

Doc. No: 052625
Date: 18-Feb-1993 03:57pm EST
From: Kevin Hartley @COP
HARTLEY.KEVIN AT A1 at GRANPA
Dept: Law Dept
Tel No: DTN 339-5160

TO: See Below

Subject: Response to Andy Hospodor 2/18 Letter

Today, Mr. Hospodor sent Russ a detailed response to our 2/1/93 termination letter. I suggest the following response to Andy's letter at tomorrow's meeting:

1. we have not had time to review Andy's letter in detail, but stand by our termination letter; and
2. we see no reason to get bogged down in finger-pointing. Let's focus on the path forward.

P.S. Upon quick review, there is nothing new or of particular concern in Andy's letter. The letter simply confirms that the parties disagree on many issues.

Regards,

Kevin

Distribution:

TO: Alan Croll @COP
TO: Al Hall @COP
TO: Russ Gullotti @MKO

CC: Lynn Busing @ALF
CC: Rich Alpert @MSO
CC: Bill OBrien @MSO
CC: Thomas Griik @MRO

ARINC
2551 Riva Road
Annapolis, MD 21401

Phone Number: (410) 266-4056
Fax Number: (410) 266-4053

Telecopy Transmission Form

TO: Mr. Russ Gulloti
Digital Equipment Corporation

FROM: Andrew T. Hospodor
ARINC Incorporated

DATE: 02/18/93

PAGES: 14 + cover

FAX NUMBER: 603/884-0864

ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

February 18, 1993

Mr. Russ Gullotti
Vice President, U.S. Area
Digital Equipment Corporation
Digital Drive
Merrimack, New Hampshire 03050-4304

Dear Russ:

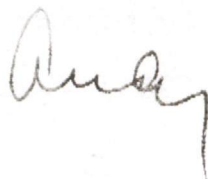
Andrew T. Hospodar
Chairman and
Chief Executive Officer

Here is a copy of our reply to Al Hall's letter of February 1, 1993. Since I am faxing this to you, I have not included all the attachments; I'll hand those to you tomorrow.

In the meantime, I'd like to ask you to read through the ARINC document. I do not expect to get into any details tomorrow, but I do think you should understand just how irrational Hall's letter appears when matched up against the real facts of your performance.

Look forward to seeing you tomorrow.

Very truly yours,



cc: Al Hall

Response to Digital Letter of February 1, 1993

Because Digital's claims often are vague and non-specific, the points raised in this document may reflect only some of the more obvious errors in the Digital letter.

The points discussed below are referenced to the appropriate paragraphs in the Digital letter.

Issue 1: Rejection of Engineering Change Proposal (ECP) #92100 for Time Division Multiplexor (TDM) Elimination

1.1 Ref: Para 1, first subparagraph

Digital Claim:

By July 1992, Digital had performed considerable work under the Contract and delivered key documents pursuant to the Contract, including the System/Segment Specification, Network Design, Availability Prediction Report, Availability Model Documentation and System/Segment Design Document. All of this extensive work was based on a TDM-based design, as required by, e.g., Section C1-4, para. 3, p.79. That work also adhered to the System Specification, Section C2, which specified requirements such as Network Performance, Availability and Reliability.

ARINC Response:

The SSS was not delivered pursuant to the Contract. Section D5 of the Contract requires that the draft be delivered by October 21, 1991. However, it was not delivered until December 11, 1991. It then took Digital six months (Dec 91 - May 92) to deliver an acceptable SSS, far longer than should have been needed. Creation of the SSS should not have been a difficult task because it was to be based on the System Specification included in the Contract.

Digital delivered Preliminary Drafts of the Network Design, SSDD, APR, and AMD before ARINC's July 2, 1992 (Reference 1) request for ECP #92100. They were seriously deficient and required extensive re-work by Digital. The deficiencies were unrelated to the elimination of TDMs from the design (References 2, 3, 4, and 5). Digital now seems to be claiming that the ECP somehow caused ARINC to reject these four documents --- an irrational conclusion based upon the facts.

References:

1. ARINC ltr of 2 Jul 92, File: DEC/ADNSII/070192; Subj: Request for Engineering Change Proposal
2. ARINC ltr of 15 Jul 92, File: DEC/ADNS2/071492/2; Subj: ECP Request/TDM Stop Work
3. ARINC ltr of 5 Jun 92; Subj: Preliminary Review of Network Design
4. ARINC ltr of 1 Jun 92; Subj: Preliminary Draft S/SDD
5. ARINC ltr of 17 Jul 92; Subj: APR Preliminary Draft

1.2 Ref: Para 1, second subparagraph

Digital Claim:

In July 1992, ARINC unilaterally and without consultation with Digital eliminated TDMs from the design.

ARINC Response:

As a result of Digital's preliminary system design, Digital engineers pointed out correctly to ARINC that the utilization of the TDM backbone circuits was very low (5 - 15%). Although Digital did not make a formal recommendation to remove the TDMs from the design, their analysis led ARINC to re-evaluate the cost effectiveness of the TDM-based design.

1.3 Ref: Para 1, second subparagraph

Digital Claim:

Additionally, ARINC imposed materially new system requirements. These material changes required Digital to essentially redo its design, reliability and availability work, and required Digital to materially increase its risk, cost, and obligation under the Contract. As a result, on August 5, 1992 pursuant to the Contract, Digital submitted ECP #92100. Even though ARINC did not accept ECP #92100, ARINC directed Digital to cease performance toward the Contract design and perform toward the new, non-Contractual requirements. Digital proceeded to do so at substantial cost.

ARINC Response:

Other than deletion of TDMs from the design, ARINC did not impose new system requirements on Digital. The removal of the TDMs reduced the overall scope of the ADNS II program and should have made the design task simpler.

Digital submitted the initial response to ARINC's request for an ECP on August 5, 1992 (Reference 6). The price of ECP #92100 was \$359,800.

Digital's ECP covered more than the requested removal of the TDMS from the network design and supporting documentation. ARINC asked Digital to reduce the ECP's scope (Reference 7) to development of the design strictly in accordance with the Contract (less TDMS) and to provide a new price reflecting the reduced effort.

References:

6. Digital ltr of 5 Aug 92, Control #00095; Subj: ECP #92100
7. ARINC ltr of 20 Aug 92, File: DEC/ADNSII/082092; Subj: Response to ECP #92100

1.4 Ref: Para 1, second subparagraph

Digital Claim:

On December 22, 1992, Digital resubmitted ECP #92100, as ECP #92100 R1C1. On January 8, 1993, ARINC again refused to accept the ECP, directing Digital to make fundamental and material changes to it. Nonetheless, Digital continued performance toward the changed requirements, at continued substantial cost.

ARINC Response:

On December 22, 1992, Digital submitted only the technical portion of ECP #92100 for approval (Reference 8). Digital stated that the cost and schedule portions would be completed after identification and resolution of all technical issues.

ARINC did not refuse to accept the ECP. In fact on January 8, 1993, ARINC approved the technical content of ECP #92100 R1 C1 contingent upon Digital's incorporation of four points into the ECP. ARINC requested that a complete ECP including the cost and schedule portions be submitted for its approval. (Reference 9)

The four points that ARINC requested be incorporated into the ECP repeated existing Contractual requirements or previous agreements between Digital and ARINC associated with ECP #92100. They did not make fundamental or material changes to either the Contract or the ECP. The points were as follows:

- Point 1. Incorporating the agreements in Reference 10 which specified that only the 1997 objective network design had to be presented at the System Design Review (SDR) and that the implementation sequence for incrementally fielding the network was to be delivered after the SDR.

Comment. The requirement to provide an implementation sequence for incrementally fielding the network is contained in the original DID 17. ECP #92100 contained a replacement DID 17 which did not address the implementation sequence. Since it was an original requirement and a mutual agreement had been reached on the delivery time frame, ARINC does not understand how this can be a fundamental and material change to either the Contract or ECP #92100.

- Point 2. Deleting a paragraph in the introductory portion of the ECP (Paragraph 15, second subparagraph) that described a possible result of implementing the ECP.

Comment. The paragraph did not contain any tasking or requirements that Digital must satisfy. Thus, deletion of the paragraph cannot be a fundamental and material change to the ECP.

- Point 3. Replacing paragraph 15.II, last subparagraph, first sentence which states: "Provide an STB design which will be capable of exercising the operational network and software under test conditions." with: "Provide an STB design that satisfies the requirements of Section C2-6 of the Contract."

Comment. The ARINC wording eliminates possible confusion as to the function of the STB. The words in the ECP could be erroneously interpreted to mean that the STB must be able to exercise the operational network. Rather than rephrase the statement, referring to the STB requirements section of the Contract (C2-6) is a safer approach. Substituting the reference to Section C2-6 of the Contract cannot be considered a fundamental and material change to the ECP.

- Point 4. Indicating that Digital must "provide an ADNS II Topology Selection Process Report which identifies the preliminary site selection" for packet switches, and re-do its analysis if there is a significant change in any of the costs that were used in the preliminary site selection process.

Comment. Digital accepted this process on December 15, 1992 (Reference 11).

References:

8. Digital ltr of 22 Dec 92, Control #00131; Subj: Engineering Change Proposal (ECP) Time Division Multiplexor (TDM) Elimination, #92100 RI C1
 9. ARINC ltr of 8 Jan 93; Subj: Engineering Change Proposal #92100 RI C1
 10. ARINC ltr of 1 Sep 92; Subj: ADNS II Network Design for SDR
 11. Digital's CCMail of 12/15/92; Subj: ADNS II Site Selection
- 1.5 Ref: Para 1, third subparagraph

Digital Claim:

On January 25, 1993, Digital submitted its final ECP #92100 as ECP #92100 R1C2. On January 29, 1993, ARINC regrettably rejected ECP #92100. Digital cannot continue to expend substantial resources and funds toward a new design, one imposing materially different risk, cost, and obligation on Digital, without materially different benefits per ECP #92100.

ARINC Response:

On January 8, 1993, ARINC approved the technical content of ECP #92100 R1 C1 provided that four comments (addressed above) be incorporated into the ECP. In its January 25, 1993, submission of ECP #92100 R1 C2 (Reference 12), Digital acknowledged receipt of the required changes but did not incorporate them into the final form of the ECP as requested. Digital's price in the 5 Aug 92 version of ECP #92100 was \$359,800 and included costs for efforts outside the scope directed by ARINC. The scope of ECP #92100 R1C2 had been reduced to comply with ARINC's direction, but without justification, Digital's price for the ECP increased from \$359,800 to \$1,164,805!

ARINC did not reject the ECP; it requested that it be re-submitted with the four comments addressed either in the ECP or by a statement in the cover letter indicating that these agreements are within the scope of the Block Change 1 purchase order. ARINC desired that the total scope of the ECP #92100 related effort be identified and included in the price.

In addition, ARINC requested that the submission of contain detailed rationale and pricing data that would explain why

the price of the January 5, 1993, version of ECP #92100 had increased by over 320% compared to the August 5, 1992, version. We are still waiting for an answer. As an observation, the Digital proposal for all of BC 1 was \$2.7M. ECP #92100 simplifies and reduces Digital's effort. The notion that a reduction in effort causes new costs equal to 40% of the original effort is just not rational.

References:

12. Digital ltr of 25 Jan 93, Control #00136; Subj: Cost Section of ECP #92100R1C2

1.6 Ref: Para 1, fourth subparagraph

Digital Claim:

Indeed, by its unilateral material change in the required design and its continued rejection of ECP #92100, ARINC terminated the Contract. This termination constitutes a material breach of ARINC's obligation to permit Digital to perform under the Contract.

ARINC Response:

ARINC has not terminated the Contract. ARINC has the right under the Contract (Section F, paragraph 19.11) to make a change in the System Specification. In exercising that right, ARINC has requested and continues to request from Digital an ECP that covers only the elimination of the TDMs from the network design. ARINC has not rejected ECP #92100. It has requested that Digital resubmit a complete ECP, including detailed pricing data.

The request for resubmission of a complete ECP does not inhibit Digital's performance in any way.

Issue 2: Material Expansion of Contract Scope. ARINC repeatedly interfered with Digital's performance of the Contract by insisting that Digital perform substantial, material and excessive work beyond the scope of the Contract.

2.1 Ref: Para 2.a

Digital Claim:

Requiring Digital to design for cost requirements. Section C2, System Specifications, specifies the criteria for system design. These criteria do not include cost requirements. ARINC's insistence that Digital design for cost requirements materially alters the design parameters and therefore the Contract. Furthermore, interjecting cost requirements,

eliminating TDMS from the design, and insisting upon adherence to the original design specifications, are inherently inconsistent. ARINC accordingly has not only materially changed the Contract, but materially increases Digital's risk, cost and obligation. This is particularly frustrating because Digital told ARINC about cost concerns with the Contract requirements, but ARINC insisted that ARINC was responsible for cost and Digital need not consider it.

ARINC Response:

Cost has always been a requirement in accomplishing the system/network design. Digital agreed in the Contract to follow ARINC's Project Development Standard (PDS) (Reference 13). Section 4.3, System Design Phase, of the PDS states that one of the system level aspects of the engineering process in the system design phase is "the cost of building and maintaining the system." Costs must include all costs, such as, cost associated with equipment, facilities, access circuits and trunk circuits. ARINC's insistence that Digital include cost in the system/network design is totally consistent with Section 4.3 of Reference 13.

Moreover, good systems engineering practices require that cost be included as a criteria in accomplishing the system/network design. Section C1-1, Paragraph 4 of Reference 13 (System Engineering) states that "Seller shall design, build, and implement ADNS II in a manner that is consistent with good systems engineering practices."

Eliminating TDMS from the design was not inconsistent with cost being a system design criteria.

Digital's statement that "designing for cost requirements materially alters the design parameters and therefore the Contract" is inconsistent with Digital's performance on the Contract prior to making this outrageous claim. The first Digital hints that they were changing their perspective came in August of 1992. Previously, Digital's senior management agreed that costs are part of the System Integrator's responsibility.

Digital's working draft version of the Network Design dated May 1, 1992 (Reference 14) lists "cost optimization" as a design goal. Digital's working draft version dated May 17, 1992 (Reference 15) stated that "the design process involves tradeoffs between objectives of availability, performance and cost." In Digital's Preliminary version of the Network Design dated June 1, 1992 (Reference 16), it was stated that "design process centered on decisions concerned with three aspects of the design: availability, performance, and cost".

These statements indicate that Digital had always considered cost as a major criteria in accomplishing the system/network design.

References:

13. ARINC Doc of 15 October 90; Title: ARINC Project Development Standard - D50355-001-01
14. Digital Doc of 1 May 92; Title: Working Preliminary Draft ADNS II Network Design - DCN 10053
15. Digital Doc of 17 May 92; Title: Working Draft ADNS II Network Design - DCN 10053
16. Digital Doc of 1 June 92; Title: Preliminary ADNS II Network Design - DCN 10053

2.2 Ref: Para 2.b

Digital Claim:

Changing Contractual Point of Presence (POP) sites. The Contract, Section C-2, para. 1.3.1, p114, specifies the POP sites for the system design. Nonetheless, ARINC rejected Digital's design using these POP sites, and required Digital to perform substantial new analyses to select POP site locations.

ARINC Response:

ARINC did not change the contractual requirements regarding POP sites. The contract requires Digital to perform a network design in accordance with the System Specification and related documents and requires that the design allow for specified POP sites. When ARINC returned the design document to Digital, it asked several questions regarding Digital POP selections, and Digital agreed to modify its design document in response to the questions. ARINC's focus has always been on a design that can meet the contractual performance requirements.

2.3 Ref: Para 2.c

Digital Claim:

Changing Contract definitions without specified acceptance criteria. By way of example of repeated ARINC conduct, DID 18 contains a definition of sensitivity analysis which Digital was required to and did use for the Availability Prediction Report. ARINC, however employed a new definition of sensitivity analysis in rejecting the APR. Furthermore,

ARINC's refusal to establish criteria for an upper limit on the number of availability model runs that could result from ARINC's changed definition would commit Digital to unlimited, excessive and expensive work.

ARINC Response:

DID 18 of the Contract does not contain a definition of sensitivity analysis. DID 18 is the ADNS II Availability Model Data Item Description and it describes the model and its capabilities. It is stated that the model shall contain " a sensitivity analysis feature which will permit examining the effect of changing components at a site." This clearly describes the capability of the sensitivity analysis feature and is not the definition of sensitivity analysis to be performed. The Availability Prediction Report (APR) was not only rejected for missing the sensitivity analysis, but also for other serious deficiencies; e.g., not providing the required detail reliability and maintainability analysis for nodal systems; for providing an inappropriate Markov chain analysis for the NCS and NIPS (Reference 5).

Section C1-1, Paragraph 4, System Engineering states that "Seller shall design, build, and implement ADNS II in a manner that is consistent with good systems engineering practices." Good systems engineering practices dictate that the range of component reliability values analyzed is based upon the source of the reliability figures; i.e., field measurement or estimation. It is Digital's responsibility to establish the required upper boundary for these analyses. Therefore, Digital's assertion that ARINC would not establish an upper limit on the number of availability model runs is pointless; it simply is not ARINC's responsibility. ARINC can provide its judgement to Digital only as to correctness of such a limit.

References:

5. ARINC ltr of 17 Jul 92; Subj: APR Preliminary Draft

2.4 Ref: Para 2.d

Digital Claim:

Imposing commercially unreasonable requirements inconsistent with the nature of the Contract. ARINC persisted in forcing Digital to perform innumerable analyses and wasteful iterations which serve no commercial purpose, are not called out in the Contract, and impair both Digital's and ARINC's ability to achieve the contract goal of designing and delivering a new ARINC network. For example, it is hardly consistent with the Contract purpose or spirit for ARINC to

insist on excruciating detail for all possible combinations and permutations of operational scenarios, detailing all possible paths and subpaths for message traffic traversing the network.

ARINC Response:

ARINC did not force Digital to perform analyses beyond those that are required for Digital to do the job. For example, Digital is required to provide a design that meets the performance requirements in the Contract. ARINC consistently stated that approximately 20% of all the scenarios from a total of 48 were worst case scenarios that needed in-depth analysis to ensure that the performance requirements could be met. It is up to Digital to determine which scenarios need in depth analysis, and to be able to defend that determination on some rational basis, which it has been unable to do.

Issue 3: Rejection of deliverables conforming to the Contract.

Digital Claim:

In June of 1992, Digital submitted key foundational deliverables, including the Network Design and the Availability Prediction Report. These documents conformed to the Contract, but ARINC wrongfully rejected them on noncontractual, minute and unspecified grounds. Digital could not and cannot successfully perform its further Contract obligations since ARINC refused to accept these foundational documents.

ARINC Response:

As stated in the response to item 1.1, the Network Design and Availability Prediction Report did not conform to the Contract in that they did not provide the data required by Data Item Descriptions #17 (ADNS II Network Design) and #20 (ADNS II Availability Prediction Report). (References 3 and 5)

References:

3. ARINC ltr of 5 Jun 92; Subj: Preliminary Review of Network Design
5. ARINC ltr of 17 Jul 92; Subj: APR Preliminary Draft

Issue 4: Failure to act in good faith. In addition to the above conduct, ARINC has displayed a continual pattern of what amounts to unfair dealing with Digital.

4.1 Ref: Para 4.a

Digital Claim:

ARINC applies its Standards arbitrarily and excessively, even compared with its own internal interpretation of those Standards. In fact, ARINC has admitted to Digital that its interpretation of Digital's obligations under the Standards are "seventeen times" more severe than ARINC's application of the Standards in other contexts. ARINC also has admitted that it has used the Digital documents, which ARINC pressured Digital to submit supposedly in conformance with the Standards, as a model to redesign its Standards upwards.

ARINC Response:

ARINC has not sought to impose standards of performance beyond contractual performance standards, including ARINC's Project Development Standard and Documentation Standard, that were provided to Digital prior to Contract execution. Digital agreed to these standards as part of the Contract. ARINC has applied these standards consistently to Digital.

4.2 Ref: Para 4.b

Digital Claim:

ARINC refuses to cooperate with Digital's efforts. By way of example, ARINC refused to participate on the Contractual Technical Review Board.

ARINC Response:

ARINC has never refused to cooperate with Digital's efforts. In fact, it has been quite the opposite. The ARINC Program Manager and technical team have been made available to Digital at their site whenever required by Digital. Visits to Digital averaged 3 times per week for the last 4 months of 1992.

The TRB meeting referred to was held after the Digital Program Manager told the ARINC Program Manager that the TRB meeting would be cancelled (Reference 17). ARINC could not be expected to attend a cancelled TRB meeting.

References:

17. CCMail of 9 October 92 2:11pm; Subj: ADNS II TRB

4.3 Ref: Para 4.b

Digital Claim:

Recently, ARINC has chosen to refuse to answer telephone calls by Digital Team members.

ARINC Response:

ARINC consistently answered telephone calls from the Digital team.

4.4 Ref: Para 4.c

Digital Claim:

ARINC provides inconsistent direction, rejecting Digital work performed explicitly in the manner directed by ARINC. A graphic example involves ARINC Switching Centers. In its initial modelling and in conformance with the Contract, Digital recommended San Francisco as one of the ASCs. ARINC told Digital to change that ASC to Ferrelview, Missouri. Digital then re-performed the extensive modelling using that location. ARINC, however, subsequently directed Digital to resubstitute San Francisco for Ferrelview.

ARINC Response:

The ARINC Program Manager and Contract Officer did not direct the use of Ferrelview instead of San Francisco.

4.5 Ref: Para 4.d

Digital Claim:

ARINC requires extensive work unrelated to Contract goals. ARINC's insistence upon repeated, extensive, detailed analyses at the design phase diverts Digital's resources from the goal of designing and delivering an operational network. Instead, ARINC directs Digital to expend its time producing a fusillade of hypothetical work detached from actual network operation. Again, as one example, reference ARINC's August 20, 1993 letter which acknowledges that the traffic data ARINC supplied needed to be modified, but ARINC directed Digital to redesign the system using the unmodified data.

ARINC Response:

Digital's reference to ARINC's August 20, 1992 letter (Reference 7) has been taken out of context. ARINC supplied the traffic data to be used in the network design. In a meeting on July 8, 1992 (Reference 18) Digital suggested a modification of the "1994" traffic mix as specified in the "Baseline Circuitry and Traffic Requirements for ADNS II" document for an initial network implementation. However,

Digital indicated later that the modification of the 1994 traffic mix would be outside of the Contract scope. In response to Digital's concerns, ARINC concurred in Digital's suggestion to consider only the traffic mix as specified in the "Baseline Circuitry and Traffic Requirements for ADNS II" document (Reference 19) for its design, thus avoiding any change in current contract scope.

References:

7. ARINC ltr of 20 Aug 92, File: DEC/ADNSII/082092; Subj: Response to ECP #92100
18. ARINC CCMail of 10 July 92; Subj: Digital/ARINC Network Design and SSDD Mtg Minutes - 7/8/92
19. ARINC Doc of 17 March 92; Title: Baseline Circuitry and Traffic Requirements for ADNS II

DIGITAL CONFIDENTIAL Document

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 051849
Date: 01-Feb-1993 08:25am EST
From: Al Hall @COP
HALL.AL AT A1 at GRANMA

Dept: SALES HQTRS.
Tel No: DTN 339-5831/(301) 918-5

at DCO

831

TO: RUSS GULLOTTI @MKO

Subject: ARINC

Russ,

Attached is the final draft of the ARINC letter, some talking points and a draft memo to be sent to all airline account managers. I am scheduled to meet with Andy at 9:00am today.

Regards,

Al

DIGITAL CONFIDENTIAL Document

*a
I'll need an
email "airline litigation"
file.
R-*

I N T E R O F F I C E M E M O R A N D U M

Date: 31-Jan-1993 03:24pm EST
From: Kevin Hartley @COP
HARTLEY.KEVIN AT A1 at GRANPA

at DCO

Dept: Law Dept
Tel No: DTN 339-5160

TO: Al Hall @COP

CC: Rich Alpert @MSO
CC: Lynn Busing @ALF
CC: Alan Croll @COP

Subject: ARINC-Documents for 2/1 Meeting with Andy Hospodor

Al, the following documents are attached:

1. The draft default letter. Rich Alpert sent this to you directly but there are some minor formatting errors when sent from TEAMLINKS to ALL-IN-1. I have cleaned up the formatting. As Rich indicated, the letter is dated 2/2 (Tuesday). If you elect to deliver the final letter Monday, we should change the date to 2/1.

2. A suggested script for the various scenarios that might unfold in your meeting with Andy.

3. A draft memo to be sent to the Digital airline account managers as soon as possible after your meeting with Andy.

I'll will be in the office early on Monday if you have any questions.

Regards,

Kevin

February 2, 1993

Andrew T. Hospodor
Chairman and Chief Executive Officer
Aeronautical Radio Inc.
2551 Riva Road
Annapolis, MD 21401

RE: ADNS II Contract - Termination for ARINC's Default

Dear Andy:

As you know, Digital is committed to a long-term mutually beneficial relationship with ARINC. Digital has been working diligently to design and deliver an ADNS II network in conformance with the Contract. In the spirit of cooperation, we have patiently tried to work with ARINC to date to satisfy ARINC's requests, even for work outside the scope of the contract. We have tried to amicably resolve our differences. We are deeply disappointed we have not been allowed to perform the Contract.

Digital therefore must inform ARINC that ARINC has failed to perform its material obligations under the Contract. Accordingly, pursuant to Section F, para. 20, p486 of the Contract, Digital hereby terminates the Contract for ARINC's default. Digital is presently calculating its damages, including all its costs incurred to date, and will present ARINC with its damages calculation when complete.

Because you may not be fully aware of the situation, let me briefly describe some of the reasons for the termination:

1. ARINC Default: Rejection of Engineering Change Proposal #92100 for Time Division Multiplexor Elimination. By July 1992, Digital had performed considerable work under the Contract and delivered key documents pursuant to the Contract, including the System/Segment Specification, Network Design, Availability Prediction Report, Availability Model Documentation and System/Segment Design Document. All of this extensive work was based on a TDM-based design, as required by, e.g., Section C1-4, para. 3, p79. That work also adhered to the System Specification, Section C2, which specified requirements such as Network Performance, Availability and Reliability.

In July 1992, however, ARINC unilaterally and without consultation with Digital eliminated TDMs from the design. Additionally, ARINC imposed materially new system requirements. These material changes required Digital to essentially redo its design, reliability and availability work, and required Digital to materially increase its risk,

cost and obligation under the Contract. As a result, on August 5, 1992 pursuant to the Contract, Digital submitted ECP #92100. Even though ARINC did not accept ECP #92100, ARINC directed Digital to cease performance toward the Contract design and perform toward the new, non-Contractual requirements. Digital proceeded to do so at substantial cost. On December 22, 1992, Digital resubmitted ECP #92100, as ECP #92100 R1C1. On January 8, 1993, ARINC again refused to accept the ECP directing Digital to make fundamental and material changes to it. Nonetheless, Digital continued performance toward the changed requirements, at continued substantial cost.

On January 25, 1993, Digital submitted its final ECP #92100, as ECP 92100 R1C2. On January 29, 1993, ARINC regrettably rejected ECP #92100. Digital cannot continue to expend substantial resources and funds toward a new design, one imposing materially different risk, cost and obligation on Digital, without materially different benefits per ECP #92100.

Indeed, by its unilateral material change in the required design and its continued rejection of ECP #92100, ARINC terminated the Contract. This termination constitutes a material breach of ARINC's obligation to permit Digital to perform under the Contract.

2. ARINC Default: Material Expansion of Contract Scope. ARINC repeatedly interfered with Digital's performance of the Contract by insisting that Digital perform substantial, material and excessive work beyond the scope of the Contract. There are numerous instances of this material breach, but here are a few examples:

- a. Requiring Digital to design for cost requirements. Section C2, System Specifications, specifies the criteria for system design. These criteria do not include cost requirements. ARINC's insistence that Digital design for cost requirements materially alters the design parameters and therefore the Contract. Furthermore, interjecting cost requirements, eliminating TDMs from the design, and insisting upon adherence to the original design specifications, are inherently inconsistent. ARINC accordingly has not only materially changed the Contract but materially increases Digital's risk, cost and obligation. This is particularly frustrating because Digital told ARINC about cost concerns with the Contract requirements, but ARINC insisted that ARINC was responsible for cost and Digital need not consider it.

- b. Changing Contractual Point of Presence (POP) sites. The Contract, ~~{[NAR]}~~ C-2, para. 1.3.1, p114, specifies the POP sites for the system design. Nonetheless, ARINC rejected Digital's design using these POP sites, and required Digital to perform substantial new analyses to

Section

select POP site locations.

c. Changing Contract definitions without specified acceptance criteria. By way of example of repeated ARINC conduct, DID 18 contains a definition of sensitivity analysis which Digital was required to and did use for the Availability Prediction Report. ARINC, however employed a new definition of sensitivity analysis in rejecting the APR. Furthermore, ARINC's refusal to establish criteria for an upper limit on the number of availability model runs that could result from ARINC's changed definition would commit Digital to unlimited, excessive and expensive work.

d. Imposing commercially unreasonable requirements inconsistent with the nature of the Contract. ARINC persisted in forcing Digital to perform innumerable analyses and wasteful iterations which serve no commercial purpose, are not called out in the Contract, and impair both Digital's and ARINC's ability to achieve the contract goal of designing and delivering a new ARINC network. For example, it is hardly consistent with the Contract purpose or spirit for ARINC to insist on excruciating detail for all possible combinations and permutations of operational scenarios, detailing all possible paths and subpaths for message traffic traversing the network.

3. ARINC Default: Rejection of deliverables conforming to the Contract. In June of 1992, Digital submitted key foundational deliverables, including the Network Design and the Availability Prediction Report. These documents conformed to the Contract, but ARINC wrongfully rejected them on noncontractual, minute and unspecified grounds. Digital could not and cannot successfully perform its further Contract obligations since ARINC refused to accept these foundational documents.

4. ARINC Default: Failure to act in good faith. In addition to the above conduct, ARINC has displayed a continual pattern of what amounts to unfair dealing with Digital. For example:

a. ARINC applies its Standards arbitrarily and excessively, even compared with its own internal interpretation of those Standards. In fact, ARINC has admitted to Digital that its interpretation of Digital's obligations under the Standards are "seventeen times" more severe than ARINC's application of the Standards in other contexts. ARINC also has admitted that it has used the Digital documents, which ARINC pressured Digital to submit supposedly in conformance with the Standards, as a model to redesign its Standards upwards.

b. ARINC refuses to cooperate with Digital's efforts. By way of example, ARINC refused to participate on the Contractual Technical Review Board. Recently, ARINC has

chosen to refuse to answer telephone calls by Digital Team members.

c. ARINC provides inconsistent direction, rejecting Digital work performed explicitly in the manner directed by ARINC. A graphic example involves ARINC Switching Centers. In its initial modelling and in conformance with the Contract, Digital recommended San Francisco as one of the ASCs. ARINC told Digital to change that ASC to Ferrelview, Missouri. Digital then re-performed the extensive modelling using that location. ARINC, however, subsequently directed Digital to resubstitute San Francisco for Ferrelview.

d. ARINC requires extensive work unrelated to Contract goals. ARINC's insistence upon repeated, extensive, detailed analyses at the design phase diverts Digital's resources from the goal of designing and delivering an operational network. Instead, ARINC directs Digital to expend its time producing a fusillade of hypothetical work detached from actual network operation. Again, as one example, reference ARINC's August 20, 1992 letter which acknowledges that the traffic data ARINC supplied needed to be modified, but ARINC directed Digital to redesign the system using the unmodified data.

It appears from ARINC's actions that ARINC does not want Digital to perform or complete the Contract. Whether that is because ARINC's business needs have changed, because ARINC does not want to pay Digital, because ARINC sees the Contract as a means of securing as much of Digital's knowledge and work product as possible, or because ARINC desires to use Digital as a knowledge base to allow ARINC to develop its network in-house, ARINC has materially prevented Digital from performing the Contract.

Again, Digital sincerely regrets the need for this letter, and Digital certainly would have preferred to be allowed to perform the Contract. However, ARINC has made that impossible.

For the reasons contained herein and for other reasons, please consider the Contract terminated for ARINC's default.

Sincerely,

Alton J. Hall
Vice President

PRIVILEGED AND CONFIDENTIAL
OPINION OF DIGITAL ATTORNEY

AL HALL TALKING POINTS FOR 2/1 MEETING WITH ANDY HOSPODOR

Al, here are suggested responses to various scenarios that might occur during your meeting with Andy:

1. Andy reacts heatedly ("Only ARINC can terminate the contract", "Digital has fixed price contract", "ARINC is going to terminate Digital for default")

Response: Digital reviewed this matter thoroughly, is convinced it is justified in terminating the contract, and intends to proceed with the formal notice of default.

2. Andy tries to dispute the details of the letter

Response: The letter speaks for itself and Digital stands by every word. (I recommend avoiding discussing the details of the letter. It is likely to prove fruitless. In addition, Andy could try and use his discussion with you as evidence later).

3. Andy proposes a settlement which could take various forms:

- a. Digital pays ARINC money and/or gives ARINC work in progress for free

Response: No. Digital believes it is entitled to relief (damages) from ARINC.

- b. The parties shake hands and go there separate ways

Response: No. Digital came to the decision to terminate ARINC for default very reluctantly. Having done so, we believe strongly that we are entitled to relief from ARINC.

- c. Andy asks how much ARINC would have to pay Digital to settle this matter

Response: Digital is currently computing its damages and will give him a figure within a few days. Ask Andy how much he is willing to pay to settle. (Unless he surprises you with a very high number, I recommend you tell him you will have to think about it and will get back to him). Any settlement should be subject to a signed settlement agreement.

4. Andy says Digital can't terminate but must go through arbitration

Response: Because Digital is terminating the contract, the

arbitration clause is no longer in effect.

5. Andy refuses to read or accept the letter

Response: Try to leave a copy of the letter with him. If he refuses, there is no need to force it on him. We can simply send the final letter as planned.

6. Andy asks if Digital is going to sue ARINC

Response: We believe strongly in the merits of our case and are evaluating our legal options (I would avoid stating that we will sue ARINC - I don't believe we have made that decision yet).

7. Andy asks for more time before Digital sends the final default letter

Response: This is a judgment call for you. However, I do not recommend extending the date on which we intend to deliver the final letter. A delay would simply give ARINC more time to try and default Digital first, or try and alter the relationship or facts in some way as to weaken our case.

8. Andy recommends that a third party be brought in to mediate the dispute and/or Digital and ARINC should renegotiate the contract

Response: Digital reached the decision to terminate the contract only after concluding that the relationship is so adversarial, and that ARINC's defaults are so substantial, that Digital had no alternative but to terminate the contract. We do not believe that mediation or re-negotiation would be fruitful in this environment. We are prepared to consider assisting, on a time and materials basis, in the transition to a new vendor if ARINC wishes.

9. Andy asks about going forward with the CSC audit.

Response: Because the contract is being terminated, there is no basis for going forward with the audit.

10. Andy reacts in some other way we haven't anticipated

Response: Generally, I recommend we stick to our position that we believe Digital is entitled to terminate ARINC for default and intends to deliver the final default letter the next day. If you are truly caught off guard, I suggest you tell Andy you will have think about his response and will get back to him ASAP.

(Memo from Al Hall to Digital Account Managers for Airlines on the Board of Directors of ARINC)

*****URGENT - TERMINATION OF AIRLINE INDUSTRY CONTRACT*****

The purpose of this memo is to advise you of an impending action by Digital which may affect, or at least generate questions by, your customer.

On July 18, 1991, Digital and Aeronautical Radio, Inc. (ARINC) signed a contract under which Digital would design develop, and deliver a network for ARINC. On or about February 2, 1993, Digital plans to terminate the contract due to certain material defaults by ARINC. You will be notified immediately when the ARINC contract is in fact terminated.

The members of the ARINC Board of Directors include executives of the following airlines: United, American, and U.S. Air. We are in the process of determining the identity of the other ARINC Board members.

You may receive inquiries from your customer regarding this matter. The following are suggested messages that would be appropriate to provide your customer:

1. Digital plans to terminate the contract due to ARINC's default under the contract.
2. Digital decision to terminate the ARINC contract comes only after Digital's best efforts to (a) deliver the proposed solution in accordance with the contract, and (b) amicably resolve serious disputes between the parties proved fruitless because of the defaults of ARINC.
3. Digital remains committed to the networking business in general, and to the airline industry in particular. This action by Digital in no way impairs Digital's ability or commitment to deliver networking solutions to our airline customers.

If you have any questions concerning the ARINC contract, please feel free to call Rich Alpert, DTN 223-7559, or Kevin Hartley, DTN 339-5160, in the Law Department.



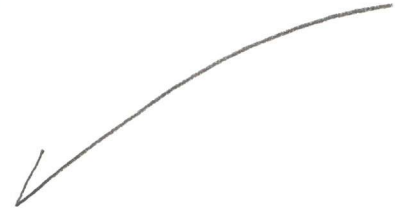
ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

a-schedule
brief 5 min call
with Ed to discuss
P1

Margo - Phyllis

RFC



May 13, 1993

Mr. Russell Gullotti
Vice President
Digital Equipment Corporation
Merrimack, New Hampshire 03050-4303

Andrew T. Hospodor
Chairman and
Chief Executive Officer

Dear Russ:

Thanks for your letter of 12 April 1993, inviting me to brief your staff on our experience with Digital. I will be in Boston on 21-23 June 1993 for the Institute of Navigation Conference. I am on the agenda for the first day as a keynote speaker but could be available 22-23 June to meet with you.

I have only one condition. I will only make this presentation if you guarantee that Edward Lucente and Robert Palmer will be in the audience. A significant part of my message will be directed towards the lack of management focus at Digital in system integration. **Let me know if this meets your purpose.**

Very truly yours,

Andy

→ Gresh - NO

Lucente - YES -

a-schedule
let's schedule
Ed to talk with
my staff for an
hour per hour
andy came in.
I need to send andy
a note -
make me do it after
I've spoken to Ed.



DIGITAL EQUIPMENT CORPORATION

Russell A. Gullotti
Vice President

Merrimack, New Hampshire
03050-4303

April 12, 1993

Mr. Andrew Hospodor
Chairman and Chief Executive Officer
Arinc Incorporated
2551 Riva Road
Annapolis, Maryland 21401-7465

Dear Andy:

I hope things are progressing well with Arinc and, specifically, with your program to build a new network.

Let me tell you the reason for this letter...

In my current role as the Vice President for Digital's United States Sales & Service organization, I am constantly trying to keep the senior leadership of the U.S. aware of customer input, both good and bad. A thought that has crossed my mind is that it would be exceptionally useful for my staff to hear from you personally about your experience in dealing with Digital as a Systems Integrator. Being the direct, honest person that you are, I know I could count on you to tell us about your disappointments and why you think we failed you. I can assure you that my staff would be in "listen mode" and would benefit greatly from hearing from you personally.

I know this is probably an odd request given the circumstances, but it is something I'd like you to consider. If you are willing to do this please let me know and I'll work a time that is convenient to you. If you have questions or would like to discuss this more by all means, feel free to call me at 603-884-6209. If you think this is an inappropriate request, I will understand completely.

In any case, the snow is beginning to melt up here and I suspect that within two weeks I'll be able to take out some of my frustrations on a little white golf ball. Perhaps I'll really be in luck and the water hazards will still be frozen!

Sincerely,

Russ Gullotti
Vice President, U.S. Area

Printed by Kevin Hartley @COP

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 017576
Date: 26-Feb-1993 09:47am EST
From: Kevin Hartley @COP
HARTLEY.KEVIN
Dept: Law Dept
Tel No: DTN 339-5160

TO: Remote Addressee

(Russ Gullotti @MKO)

Subject: ARINC Settlement Agreement - Signature Requested

Russ, attached are four (4) originals of the settlement agreement between Digital and ARINC signed by Andy Hospodor, and which I recommend you sign. Al Hall signed a fax copy of the agreement on Friday, 2/26/93.

To summarize the agreement:

1. the Contract is terminated;
2. neither party pays the other any money;
3. each party releases the other from any liability and agrees not to sue;
4. each party can keep materials received from the other party to date, neither party must provide any additional materials to the other;
5. the agreement contains a joint statement which either party may provide as it deems fit to third parties. Digital has the specific right to provide the joint statement directly to the ARINC Board members if you wish to do so - Andy would not agree to do so himself; and
6. there are confidentiality restrictions on what the parties can do with work in progress and what can be discussed with third parties. Of primary importance, because ARINC would not agree to restrictions on what it could discuss with its Board (justifiably so), we are not restricted in what we can discuss with companies represented on the ARINC Board which are also our customers. This may be important because I understand we may have already received (and may in the future receive) some bad press from Andy among our airline customers. We have the right to "set the record straight"

as appropriate with those customers.

I understand that you do not wish to take affirmative steps to send out the joint statement to customers or to otherwise discuss this matter with customers, but simply to be prepared to respond if this matter is raised by customers. You and/or Al Hall may wish to communicate this preferred approach to appropriate CBU management.

If the settlement agreement is acceptable to you, please:

- a. sign all four (4) originals of the agreement and the Joint Statement (Exhibit A);
- b. return two (2) fully executed originals to me for the ARINC files, and send two (2) originals to Andy Hospodor at:

Mr. Andrew T. Hospodor
Chairman and Chief Executive Officer
ARINC Incorporated
2551 Riva Road
Annapolis, Maryland 21401

If you would like for me to return the signed documents to ARINC, please send all four originals back to me and I will take care of it.

If you have any questions, please feel free to call me anytime. My home number is (301) 340-7362.

Thus ends the ARINC project.

Regards,

Kevin

AGREEMENT

This Agreement, effective February 26, 1993, is between Aeronautical Radio, Inc., a Delaware corporation ("ARINC"), and Digital Equipment Corporation, a Massachusetts corporation ("Digital").

RECITALS

A. On July 18, 1991, ARINC and Digital executed a contract (the "Contract") for the design, development, and delivery of the ARINC Data Network Service II ("ADNS II") network.

B. The first phase of the Contract, called "Block Change I", requires Digital, among other things, to develop and deliver to ARINC certain documents relating to the design of the proposed ADNS II network. Certain disputes have arisen between the parties under the Contract. All disputes arising under or relating to the Contract are hereinafter referred to as the "Disputes".

C. Each party acknowledges that the other party endeavored to complete the Contract with professionalism and integrity.

D. The parties desire to settle the Disputes amicably.

NOW, THEREFORE, in consideration of the terms and conditions set forth below, and notwithstanding any other agreement between the parties, ARINC and Digital, intending to be legally bound, agree as follows:

1. Termination of Contract. The Contract is hereby terminated in its entirety by mutual consent of ARINC and Digital. All rights, obligations and liabilities of the parties under the Contract are hereby extinguished, including but not limited to (a) the obligation of either party to pay the other any money in connection with the Contract, and (2) the obligation of Digital after the effective date hereof to provide to ARINC any draft or final documents, drawings, network designs, performance models, reports, materials or any other work in progress of any description specified in or relating to the Contract (collectively "Work in Progress").

2. Joint Statement. As part of this Agreement, the parties shall execute the joint statement appended as Exhibit A (the "Joint Statement"). Digital may deliver this Joint Statement to the members of the ARINC Board of Directors as identified in Appendix B. Each party shall be free to provide a copy of the Joint Statement to its customers, employees, subcontractors and other entities as it deems necessary and appropriate.

3. Release and Covenant Not to Sue.

- a. ARINC and Digital, for themselves and their respective parents, affiliates and subsidiaries, hereby release and forever discharge each other and the other's officers, directors, agents, employees, stockholders, and assigns, from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, claims and demands whatsoever, in law or equity, which the releasing party may now have, have had or may in the future have, whether known or unknown in any way arising under or related to the Contract or the Disputes. Each party expressly understands and acknowledges that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity and that the commitments of the parties hereunder were given in exchange for a full accord, satisfaction and discharge of all such known and unknown claims.
- b. Each of ARINC and Digital agrees and covenants not to sue or bring any action against the other (or any past, present or future employee, agent, officer, director, shareholder, subsidiary, affiliate, parent company, representative, or contractor) in any forum (including arbitration or courts of law or equity) arising under or relating to the Contract or the Disputes.

4. Confidentiality. Each of the parties hereto agrees to maintain in confidence the contents of the terms of this Agreement, the consideration for this Agreement and, after the effective date of this Agreement, any negative characterization concerning the performance of the other party (collectively the "Information"), except as follows:

- a. distribution of the Joint Statement in accordance with Section 2 of this Agreement;
- b. upon the prior written consent of the other party, signed by a corporate officer of the other party;
- c. to its employees, directors, attorneys and independent auditors who have a need to know;
- d. by Digital to its customers who are represented on the Board of Directors of ARINC. The name, address and company of the individuals on the ARINC Board of Directors are listed in Exhibit B;
- e. As required by law, but only if the disclosing party promptly notifies the other party of the requirement of such disclosure so as to enable the other party to obtain a protective or similar order prior to disclosure. The disclosing party will, to the extent reasonable,

cooperate with the other party to prevent or limit the disclosure of the Information. The expense of the efforts to limit or prevent disclosure, including obtaining a protective order, shall be borne by the party who objects to the disclosure; and

f. in accordance with Section 5, below.

5. Ownership of Work in Progress.

a. ARINC and Digital recognize that they have exchanged extensive Work in Progress and other information regarding the ADNS II program. Each party may retain all Work in Progress and other information received from the other party on or prior to the effective date of this Agreement, and shall have the non-exclusive, royalty-free, "paid-up", perpetual right and license to use, copy, distribute, modify and create derivative works from such materials for any purpose.

b. Either party may disclose Work in Progress to another networking vendor ("New Vendor") and identify for the New Vendor how the disclosing party would like for the New Vendor to change or modify the Work in Progress, provided the disclosing party (i) deletes the other party's name from any Work in Progress so disclosed; (ii) does not refer to the other party by name to the New Vendor; and (iii) after the effective date of this Agreement, does not make any negative characterizations concerning the performance of the other party.

6. Governing Law. This Agreement shall be governed by the laws of the State of Maryland, exclusive of its conflict of laws.

7. Representation by Counsel. Each party expressly agrees that it has been represented by counsel with respect to this Agreement and all matters covered by it, and that it has been fully advised by its attorneys with respect to its rights and obligations hereunder.

8. Authority. Each party represents and warrants that it has the right and authority to execute this Agreement, and that it has not sold, assigned, or otherwise set over to any other person or entity any claim, lien, demand, cause of action, obligation, damage or liability covered hereby.

9. Successors and Assigns. This Agreement shall be binding and inure to the benefit of the respective successors and assigns of the parties hereto.

10. Invalidity of Provisions. If any provision of this Agreement shall be held invalid or illegal, such invalidity or illegality shall not invalidate the whole of this Agreement but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly.

11. Inadmissibility. The terms of this Agreement shall be inadmissible for any purpose in any litigation, arbitration, or any other dispute resolution process, in any forum or jurisdiction, other than to secure enforcement of the terms and conditions of this Agreement itself.

12. Headings. The headings of the various sections of this Agreement are inserted for convenience of reference and shall not be deemed to be a part of this Agreement.

13. Notices. Any notice or other communication required under or relating to this Agreement shall be in writing and shall be sent pre-paid first class mail or a national overnight delivery service (e.g. Federal Express) to the other party at the following address:

If to ARINC:

Mr. Chris A. Wargo
Vice President
Aeronautical Radio, Inc.
2551 Riva Road
Annapolis, Maryland 21401

with a copy to:

John C. Smith, Esq.
Deputy General Counsel
ARINC Incorporated
2551 Riva Road
Annapolis, Maryland 21401

If to Digital:

Mr. Alan Croll
Vice President
Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770

with a copy to:

Kevin Hartley, Esq.
Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770

Notice shall be deemed given when deposited in an authorized U.S. mail deposit box or with a national overnight delivery service.

14. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may not be superseded, amended or otherwise altered except by a written instrument signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

AERONAUTICAL RADIO, INC.

BY: Andrew T. Hospodor

NAME: Andrew T. Hospodor

TITLE: Chairman and CEO

DIGITAL EQUIPMENT CORPORATION

BY: Russell A. Guilotti

NAME: Russell A. Guilotti

TITLE: Vice President

EXHIBIT A

JOINT STATEMENT BY ARINC AND DIGITAL

On July 18, 1991, Aeronautical Radio, Inc. ("ARINC") and Digital Equipment Corporation ("Digital") executed a contract under which Digital was to design, develop and deliver a new data network to ARINC.

ARINC and Digital have worked diligently to perform their respective obligations under the Contract. Due to unanticipated events, however, ARINC and Digital have determined that it is no longer in either party's best interest to continue under the Contract. Thus, ARINC and Digital elected to terminate the Contract amicably on February 26, 1993.

ARINC and Digital wish to emphasize that the mutual decision to terminate the Contract should not be construed as a reflection on the performance or capabilities of either party. Each party acknowledges that the other party endeavored to complete the Contract with professionalism and integrity. Neither party has ruled out the possibility of transacting business with the other in the future.

ARINC and Digital wish to reaffirm their respective commitments to the airline industry in general and to designing, developing, and delivering state-of-the-art networking solutions in particular.

AERONAUTICAL RADIO, INC.

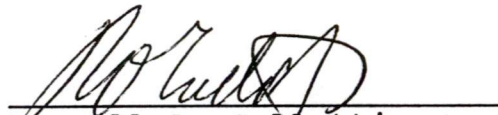
DIGITAL EQUIPMENT CORPORATION

BY:



Andrew T. Hospodor
Chairman and CEO

BY:



Russell A. Gullotti
Vice President, U.S. Area

EXHIBIT B

MEMBERS OF BOARD OF DIRECTORS OF ARINC INCORPORATED OR
AERONAUTICAL RADIO, INC.

Mr. Gerald L. Doherty
Trans World Airlines, Inc.
P. O. Box 20007
Kansas City, Missouri 64195

Mr. Paul Rendich
Pan Am World Airways, Inc.
111 Broadway
New York, New York 10006

Mr. Jerome L. Galant
American Airlines
P. O. Box 619616
MD 1406
DFW Airport, TX 75261-9616

Mr. Winn Stephenson
Federal Express
2828 Business Park Drive
Memphis, Tennessee 38118-2811

Mr. Frederick J. Haap, III
Mead Corporation
Hangar Number 4
Dayton International Airport
Vandalia, Ohio 45377

Mr. Robert E. Woodyard
Delta Air Lines, Inc.
Hartsfield Atlanta Int'l Airport
Dept. 803
Atlanta, Georgia 30320

Capt. David Haapala
Northwest Airlines, Inc.
Minneapolis/St. Paul Airport
Mail Stop F7400
Minneapolis Minnesota 55111

Mr. John O. Watson
British Airways
Speedbird House - Room V425
London Heathrow Airport
Hounslow, Middlesex TW6 2JA
England

Mr. John Harper
USAir
2345 Crystal Drive
Crystal Park Four
Arlington, VA 22227

Mr. Richard J. Hillman
Continental Airlines
2929 Allen Parkway, Room 927
Houston, Texas 77019

Mr. Andrew T. Hospodor
The ARINC Companies
2551 Riva Road
Annapolis, Maryland 21401

AGREEMENT

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8. Authority. Each party represents and warrants that it has the right and authority to execute this Agreement, and that it has not sold, assigned, or otherwise set over to any other person or entity any claim, lien, demand, cause of action, obligation, damage or liability covered hereby.

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Aeronautical Radio, Inc.
2551 Riva Road
Annapolis, Maryland 21401

with a copy to:

John C. Smith, Esq.
Deputy General Counsel
ARINC Incorporated
2551 Riva Road
Annapolis, Maryland 21401

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Mr. Alan Croll
Vice President
Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770

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Kevin Hartley, Esq.
Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770

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AERONAUTICAL RADIO, INC.

BY: *Andrew T. Hospodor*

NAME: Andrew T. Hospodor

TITLE: Chairman and CEO

DIGITAL EQUIPMENT CORPORATION

BY: *Russell A. Goulet*

NAME: Russell A. Goulet

TITLE: VICE PRESIDENT

EXHIBIT A

JOINT STATEMENT BY ARINC AND DIGITAL

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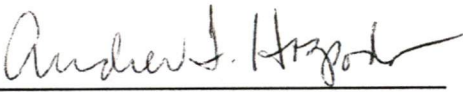
ARINC and Digital have worked diligently to perform their respective obligations under the Contract. Due to unanticipated events, however, ARINC and Digital have determined that it is no longer in either party's best interest to continue under the Contract. Thus, ARINC and Digital elected to terminate the Contract amicably on February 26, 1993.

ARINC and Digital wish to emphasize that the mutual decision to terminate the Contract should not be construed as a reflection on the performance or capabilities of either party. Each party acknowledges that the other party endeavored to complete the Contract with professionalism and integrity. Neither party has ruled out the possibility of transacting business with the other in the future.

ARINC and Digital wish to reaffirm their respective commitments to the airline industry in general and to designing, developing, and delivering state-of-the-art networking solutions in particular.

AERONAUTICAL RADIO, INC.

DIGITAL EQUIPMENT CORPORATION

BY: 
Andrew T. Hospodor
Chairman and CEO


BY: 
Russell A. Gullotti
Vice President, U.S. Area

EXHIBIT B

MEMBERS OF BOARD OF DIRECTORS OF ARINC INCORPORATED OR
AERONAUTICAL RADIO, INC.

Mr. Gerald L. Doherty
Trans World Airlines, Inc.
P. O. Box 20007
Kansas City, Missouri 64195

Mr. Paul Rendich
Pan Am World Airways, Inc.
111 Broadway
New York, New York 10006

Mr. Jerome L. Galant
American Airlines
P. O. Box 619616
MD 1406
DFW Airport, TX 75261-9616

Mr. Winn Stephenson
Federal Express
2828 Business Park Drive
Memphis, Tennessee 38118-2811

Mr. Frederick J. Haap, III
Mead Corporation
Hangar Number 4
Dayton International Airport
Vandalia, Ohio 45377

Mr. Robert E. Woodyard
Delta Air Lines, Inc.
Hartsfield Atlanta Int'l Airport
Dept. 803
Atlanta, Georgia 30320

Capt. David Haapala
Northwest Airlines, Inc.
Minneapolis/St. Paul Airport
Mail Stop F7400
Minneapolis Minnesota 55111

Mr. John O. Watson
British Airways
Speedbird House - Room V425
London Heathrow Airport
Hounslow, Middlesex TW6 2JA
England

Mr. John Harper
USAir
2345 Crystal Drive
Crystal Park Four
Arlington, VA 22227

Mr. Richard J. Hillman
Continental Airlines
2929 Allen Parkway, Room 927
Houston, Texas 77019

Mr. Andrew T. Hospodor
The ARINC Companies
2551 Riva Road
Annapolis, Maryland 21401

AGREEMENT

This Agreement, effective February 26, 1993, is between Aeronautical Radio, Inc., a Delaware corporation ("ARINC"), and Digital Equipment Corporation, a Massachusetts corporation ("Digital").

RECITALS

A. On July 18, 1991, ARINC and Digital executed a contract (the "Contract") for the design, development, and delivery of the ARINC Data Network Service II ("ADNS II") network.

B. The first phase of the Contract, called "Block Change I", requires Digital, among other things, to develop and deliver to ARINC certain documents relating to the design of the proposed ADNS II network. Certain disputes have arisen between the parties under the Contract. All disputes arising under or relating to the Contract are hereinafter referred to as the "Disputes".

C. Each party acknowledges that the other party endeavored to complete the Contract with professionalism and integrity.

D. The parties desire to settle the Disputes amicably.

NOW, THEREFORE, in consideration of the terms and conditions set forth below, and notwithstanding any other agreement between the parties, ARINC and Digital, intending to be legally bound, agree as follows:

1. Termination of Contract. The Contract is hereby terminated in its entirety by mutual consent of ARINC and Digital. All rights, obligations and liabilities of the parties under the Contract are hereby extinguished, including but not limited to (a) the obligation of either party to pay the other any money in connection with the Contract, and (2) the obligation of Digital after the effective date hereof to provide to ARINC any draft or final documents, drawings, network designs, performance models, reports, materials or any other work in progress of any description specified in or relating to the Contract (collectively "Work in Progress").

2. Joint Statement. As part of this Agreement, the parties shall execute the joint statement appended as Exhibit A (the "Joint Statement"). Digital may deliver this Joint Statement to the members of the ARINC Board of Directors as identified in Appendix B. Each party shall be free to provide a copy of the Joint Statement to its customers, employees, subcontractors and other entities as it deems necessary and appropriate.

3. Release and Covenant Not to Sue.

- a. ARINC and Digital, for themselves and their respective parents, affiliates and subsidiaries, hereby release and forever discharge each other and the other's officers, directors, agents, employees, stockholders, and assigns, from any and all actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, claims and demands whatsoever, in law or equity, which the releasing party may now have, have had or may in the future have, whether known or unknown in any way arising under or related to the Contract or the Disputes. Each party expressly understands and acknowledges that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity and that the commitments of the parties hereunder were given in exchange for a full accord, satisfaction and discharge of all such known and unknown claims.
- b. Each of ARINC and Digital agrees and covenants not to sue or bring any action against the other (or any past, present or future employee, agent, officer, director, shareholder, subsidiary, affiliate, parent company, representative, or contractor) in any forum (including arbitration or courts of law or equity) arising under or relating to the Contract or the Disputes.

4. Confidentiality. Each of the parties hereto agrees to maintain in confidence the contents of the terms of this Agreement, the consideration for this Agreement and, after the effective date of this Agreement, any negative characterization concerning the performance of the other party (collectively the "Information"), except as follows:

- a. distribution of the Joint Statement in accordance with Section 2 of this Agreement;
- b. upon the prior written consent of the other party, signed by a corporate officer of the other party;
- c. to its employees, directors, attorneys and independent auditors who have a need to know;
- d. by Digital to its customers who are represented on the Board of Directors of ARINC. The name, address and company of the individuals on the ARINC Board of Directors are listed in Exhibit B;
- e. As required by law, but only if the disclosing party promptly notifies the other party of the requirement of such disclosure so as to enable the other party to obtain a protective or similar order prior to disclosure. The disclosing party will, to the extent reasonable,

cooperate with the other party to prevent or limit the disclosure of the Information. The expense of the efforts to limit or prevent disclosure, including obtaining a protective order, shall be borne by the party who objects to the disclosure; and

f. in accordance with Section 5, below.

5. Ownership of Work in Progress.

a. ARINC and Digital recognize that they have exchanged extensive Work in Progress and other information regarding the ADNS II program. Each party may retain all Work in Progress and other information received from the other party on or prior to the effective date of this Agreement, and shall have the non-exclusive, royalty-free, "paid-up", perpetual right and license to use, copy, distribute, modify and create derivative works from such materials for any purpose.

b. Either party may disclose Work in Progress to another networking vendor ("New Vendor"), and identify for the New Vendor how the disclosing party would like for the New Vendor to change or modify the Work in Progress, provided the disclosing party (i) deletes the other party's name from any Work in Progress so disclosed; (ii) does not refer to the other party by name to the New Vendor; and (iii) after the effective date of this Agreement, does not make any negative characterizations concerning the performance of the other party.

6. Governing Law. This Agreement shall be governed by the laws of the State of Maryland, exclusive of its conflict of laws.

7. Representation by Counsel. Each party expressly agrees that it has been represented by counsel with respect to this Agreement and all matters covered by it, and that it has been fully advised by its attorneys with respect to its rights and obligations hereunder.

8. Authority. Each party represents and warrants that it has the right and authority to execute this Agreement, and that it has not sold, assigned, or otherwise set over to any other person or entity any claim, lien, demand, cause of action, obligation, damage or liability covered hereby.

9. Successors and Assigns. This Agreement shall be binding and inure to the benefit of the respective successors and assigns of the parties hereto.

10. Invalidity of Provisions. If any provision of this Agreement shall be held invalid or illegal, such invalidity or illegality shall not invalidate the whole of this Agreement but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly.

11. Inadmissibility. The terms of this Agreement shall be inadmissible for any purpose in any litigation, arbitration, or any other dispute resolution process, in any forum or jurisdiction, other than to secure enforcement of the terms and conditions of this Agreement itself.

12. Headings. The headings of the various sections of this Agreement are inserted for convenience of reference and shall not be deemed to be a part of this Agreement.

13. Notices. Any notice or other communication required under or relating to this Agreement shall be in writing and shall be sent pre-paid first class mail or a national overnight delivery service (e.g. Federal Express) to the other party at the following address:

If to ARINC:

Mr. Chris A. Wargo
Vice President
Aeronautical Radio, Inc.
2551 Riva Road
Annapolis, Maryland 21401

with a copy to:

John C. Smith, Esq.
Deputy General Counsel
ARINC Incorporated
2551 Riva Road
Annapolis, Maryland 21401

If to Digital:

Mr. Alan Croll
Vice President
Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770

with a copy to:

Kevin Hartley, Esq.
Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770

Notice shall be deemed given when deposited in an authorized U.S. mail deposit box or with a national overnight delivery service.

14. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may not be superseded, amended or otherwise altered except by a written instrument signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

AERONAUTICAL RADIO, INC.

BY: Andrew Hospodor

NAME: Andrew T. Hospodor

TITLE: Chairman and CEO

DIGITAL EQUIPMENT CORPORATION

BY: Russell A. Guilford

NAME: Russell A. Guilford

TITLE: Vice President

EXHIBIT A

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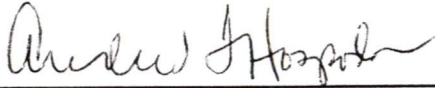
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DIGITAL EQUIPMENT CORPORATION

BY:



Andrew T. Hospodor
Chairman and CEO

BY:



Russell A. Gullotti
Vice President, U.S. Area

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Annapolis, Maryland 21401

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Deputy General Counsel
ARINC Incorporated
2551 Riva Road
Annapolis, Maryland 21401

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Mr. Alan Croll
Vice President
Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770

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AERONAUTICAL RADIO, INC.

BY: Andrew T. Hospodor

NAME: Andrew T. Hospodor

TITLE: Chairman and CEO

DIGITAL EQUIPMENT CORPORATION

BY: Russell A. Goulet

NAME: Russell A. Goulet

TITLE: VICE PRESIDENT

EXHIBIT A

JOINT STATEMENT BY ARINC AND DIGITAL

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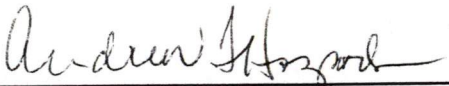
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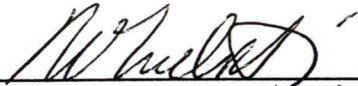
DIGITAL EQUIPMENT CORPORATION

BY:



Andrew T. Hospodor
Chairman and CEO

BY:



Russell A. Gullotti
Vice President, U.S. Area

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Mr. Richard J. Hillman
Continental Airlines
2929 Allen Parkway, Room 927
Houston, Texas 77019

Mr. Andrew T. Hospodor
The ARINC Companies
2551 Riva Road
Annapolis, Maryland 21401

ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

February 22, 1993
File: 07-3-7-Digital

*file
ARINC*

Mr. Russell A. Gullotti
Vice President
Digital Equipment Corporation
Digital Drive
Maynard, MA 01754-2571

Re: ADNS II

Andrew T. Hospodor
Chairman and
Chief Executive Officer

Dear Russ:

This is to memorialize the agreement we reached last Friday in my office regarding the ARINC-Digital ADNS II systems integration contract dated July 18, 1991. I enclose an extra copy of this letter for you to sign and return to me.

Effective immediately, the referenced contract shall be deemed terminated by mutual agreement of the parties, and all respective rights and obligations of ARINC and Digital thereunder shall be of no further effect. In particular, ARINC releases Digital and Digital releases ARINC from any further performance or payment obligations under or in relation to the referenced contract. Each of ARINC and Digital agrees not to bring any action against the other (or any past, present or future employee, agent, officer, director, shareholder, subsidiary, affiliate, parent company, representative or contractor) in any forum (including arbitration or courts of law or equity) in connection with any matter relating to the contract or to any subsequent work on any ARINC network. Each of ARINC and Digital agrees not to pursue or seek remedy for any claim that the other was in default of its obligations in connection with the contract.

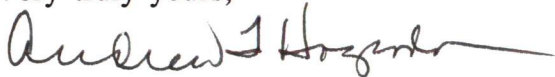
ARINC and Digital recognize that they have exchanged extensive information regarding the ADNS II program. Each party may retain all materials (including, but not limited to, documents, drawings, network designs and performance models) received from the other party to date, and shall have the non-exclusive royalty-free, "paid up" perpetual right to use, copy, distribute, modify and create derivative works from same for any purpose. Neither party shall make any payment to the other under the contract or in relation to this mutual termination and release; the mutual agreements and promises made herein shall be deemed full and adequate consideration. This agreement shall supersede all other agreements of the parties.

Mr. Russell A. Gullotti
February 22, 1993
Page 2

We further agreed to coordinate, and mutually agree in advance upon any press releases on the subject of this mutual termination and release. I understand that Digital will be providing me with a draft press release for my review in the near future.

I believe that I have faithfully recorded our agreement in this letter. However, I must note that, until signed on behalf of Digital, this letter should be considered a settlement proposal that is made without prejudice to ARINC's right to pursue all available remedies with respect to the contract if I do not receive back a countersigned copy of this letter from you in one week.

Very truly yours,



Andrew T. Hospodor

Accepted and Agreed to by
Digital Equipment Corporation

By: _____

Russell A. Gullotti,
Vice President

Date: _____

ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

February 22, 1993
File: 07-3-7-Digital

Mr. Russell A. Gullotti
Vice President
Digital Equipment Corporation
Digital Drive
Maynard, MA 01754-2571

Re: ADNS II

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February 12, 1993

Mr. Russ Gullotti
Vice President, U.S. Area
Digital Equipment Corporation
Digital Drive
Merrimack, New Hampshire 03050-4303

Dear Russ:

Andrew T. Hospodor
Chairman and
Chief Executive Officer

Your letter of 9 February does not respond to two of the main points in my letter to Bob Palmer. Do I still have your personal promise to complete the contract successfully? Are you prepared to go the route of hiring another contractor to fill in for the Digital team's still-visible shortcomings? On this second point, I would like you to thoughtfully reconsider the earlier conclusions of John Puma.

One last point. Although I do not want to get into an argument with you over the content of Al Hall's letter (in which you regrettably concur), there is one paragraph that I find particularly enlightening:

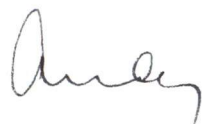
"For example, it is hardly consistent with contract purpose or spirit for ARINC to insist on excruciating detail for all possible combinations and permutations of operational scenarios detailing all possible paths and subpaths for message traffic traversing the network."

This one sentence puts in clear focus the sharp differences between our organizational approaches. ADNS II is our lifeblood; it is the future of ARINC. If we do not insist upon analysis and test of most of these combinations, how else would you or we know that the system worked? . . . wait until it failed and then patch it in the field? . . . with our airline customers and the FAA screaming bloody murder?

Mr. Russ Gullotti
February 12, 1993
Page 2

I'd like to find a satisfactory resolution. I can be free Wednesday, Thursday, or Friday next week and would be happy to host your visit to Annapolis.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Andy".



Russell A. Gullotti
Vice President

February 9, 1993

Andrew T. Hospodor
Chairman and Chief Executive Officer
Aeronautical Radio Inc.
2551 Riva Road
Annapolis, MD 21401

Dear Andy:

I am responding to your February 3, 1993 letter to Bob Palmer, in which you invite discussion of how Digital can "cure its performance shortcomings".

Andy, as you know, I, as well as Al Hall and others at Digital, have always been happy to discuss how best to provide ARINC with its ADNS II network. You and I have had a number of amicable conversations in that regard. However, it is clear that we view very differently what went wrong with this project, for I fully share the views expressed in Al Hall's letter to you of February 1. Nevertheless, I agree with you that we need to try to move forward.

While we could discuss at length either ARINC's fault or "Digital's performance shortcomings", that would not be constructive. I propose that we now focus on the best way to achieve a mutually satisfactory resolution of the current situation.

Please let me know if you concur. If so, I will arrange for the appropriate conversations to occur without delay. I look forward to a positive resolution.

Sincerely,

Russ Gullotti
Vice President, U.S. Area

CC: Al Hall
Bob Palmer

Andrew T. Hospodor
Chairman and Chief Executive Officer
Aeronautical Radio Inc.
2551 Riva Road
Annapolis, MD 21401

Dear Andy:

I am responding to your February 3, 1993 letter to Bob Palmer, in which you invite discussion of how Digital can "cure its performance shortcomings".

Andy, As you know, I, as well as Al Hall and others at Digital, have always been happy to discuss how best to provide ARINC with its ADNS II network. You and I have had a number of amicable conversations in that regard. However, it is clear that we view very differently what went wrong with this project, for I fully share the views expressed in Al Hall's letter to you of February 1. Nevertheless, I agree with you that we need to try to move forward.

While we could discuss at length either ARINC's fault or "Digital's performance shortcomings", that would not be constructive. I propose that we now focus on the best way to achieve a mutually satisfactory resolution of the current situation.

Please let me know if you concur. If so, I will arrange for the appropriate conversations to occur without delay. I look forward to a positive resolution.

Sincerely,

Russ Gullotti
Vice President

cc Al Hall
Bob Palmer
BCC Tom Guich
Bill Bruen
Ray Mayer
Rick Alpert

Printed by Russ Gullotti @CORE

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 010594
Date: 03-Feb-1993 05:07pm EST
From: Rich Alpert Corporate Law
alpert@AM_GAVEL@PKOMTS@MSO
Dept:
Tel No: 223-7559

TO: Al Hall@cop
TO: Russ Gullotti@core
TO: Alan Croll@cop
TO: Lynn Busing@alf

CC: Kevin Hartley@cop
CC: Tom Grilk@mro
CC: Bill O'Brien@mso

Subject: ARINC/

al Hall
① Surprised he sends notes like this?
② If we can get them to negotiate, keep things going. withheld damages requested in a whole damn drive to thank?
③

*****ATTORNEY - CLIENT PRIVILEGED COMMUNICATION*****
*****ATTORNEY WORK PRODUCT*****

ARINC's Project Manager told Ben Burgis (our Project Manager) that ARINC was surprised at our termination. He asked Ben to keep the Team intact until we could work something out. Thus, I suspect things will be moving quickly if ARINC still wants our help at all.

I recommend the following strategy:

1. Prepare various damages scenarios (already commenced):
 - a. Expenses on project and anticipated profit (= approx. \$4M)
 - b. Contract price, including ECP (= approx \$4.3M)
 - c. Expenses on project (=approx \$3.5M)
 - d. Expenses on work covered by ECP (=?)
 - e. Current value to ARINC of work product delivered (=?)
 - f. Contract price including ECP, minus cost of future performance to commercially reasonable standard (= approx \$1m)
2. Before Team dissolves, detail ARINC breaches (already commenced) *done?*
3. Receive ARINC's formal response to our termination (expect a default letter, damages demand, and possibly filing for arbitration)
4. Present maximum damages scenario to ARINC

C-
Resend max FYI

5. Meet with ARINC (Al, Andy H., lawyers?) to identify what ARINC really wants
- o Walk away?
 - o Digital transition help (work product? time?)
 - o Money from Digital?
6. BOTTOMLINE: Negotiate if necessary down to a \$0M - \$1M recovery and/or T&M for transition help. Rationale:
- a. Obviously, no payment to ARINC
 - b. Large recovery by Digital (for contract price or expenses) unlikely given:
 - o fixed price contract
 - o legal requirement to deduct from damages the future savings of not having to perform
 - o our failure to submit more ECPS to cover all extra expenses
 - c. Achieved main goal of stopping the expense, with low probability of large exposure
 - d. Too aggressive approach likely will push ARINC to arbitration, with 50% chance of finding that Digital breached by terminating rather than submitting more ECPS and invoking arbitration
 - e. T&M for transition help gets revenues, saves face for ARINC

Regards.



ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

*Customer Issue #2
7 pages total*

February 3, 1993

Mr. Robert Palmer
President
Digital Equipment Corporation
146 Main Street
Maynard, Massachusetts 01754

Dear Mr. Palmer:

Andrew T. Hospodor
Chairman and
Chief Executive Officer

In July 1991, ARINC awarded a fixed price systems integration contract to Digital for our ADNS II network. This network is to replace the backbone of our mission critical network which ties together the airlines and Civil Aviation Authorities in North America.

From the beginning, Digital has had technical performance and management difficulties which have resulted in serious delays in the program. It is obvious to us that the Digital team that bid the job was not the Digital team doing the job. Digital's ongoing failure to perform its contractual obligations has created a continuous need for ARINC to educate Digital both on the content of the job and the work efforts necessary for its completion. Indeed, several times during the last 17 months, I was compelled to draw Digital management's attention to the program to attempt to keep Digital on track in its obligation.

When ARINC and Digital entered into this contract, Russ Gullotti promised me that Digital would not fail to complete the ADNS II project. In subsequent conversations, Russ has remained cooperative and action-oriented. Last August, I expressed to Russ my deep concern over Digital's inability to perform the contract. In fact, during the Digital Leadership Forum, I warned Russ that, even at that late date, Digital's team in Landover viewed the job as a mere hardware sale and was not demonstrating the systems engineering abilities necessary to deliver a fully integrated, mission critical system. Because the ADNS II network is to carry much of the revenue producing traffic of the ARINC Companies, a failure by Digital in this system work would place the future of the ARINC Companies at risk. At the Forum, Russ offered, and I agreed to consider, the possibility that Digital would subcontract with another firm (even including hiring ARINC itself) to assist it in completing its responsibilities.

Mr. Robert Palmer
February 3, 1993
Page 2

Because of Russ' offer and his earlier promise, I elected not to pursue termination of Digital for default at that time. Instead, I agreed to review the ADNS II project closely to determine if outside assistance would be useful. I also placed ARINC's lead engineers at Digital's disposal to work with Digital in its effort to perform the contract. As a result of ARINC's assistance, Digital finally created a preliminary representation of the system design in December 1992, many months behind schedule. Digital then informed us that the System Design Review (SDR), which the contract required by January 31, 1992, would not be completed until October 1, 1993 at the earliest.

In December, I advised Russ that ARINC contemplated asking CSC to work with ARINC and Digital to audit the ADNS II effort to date. I later advised Russ that CSC's involvement also could provide him the opportunity to follow through on his August offer. Instead of pursuing this potentially constructive course of action, Digital assigned Al Hall of your local sales office to propose to "renegotiate the contract." After several subsequent meetings in which I was unwilling to permit Digital to sidestep its contractual and personal commitments to perform the contract, Al Hall sent the attached letter purporting to terminate this contract based on ARINC's default. It is indeed surprising and sad to discover that Digital would attempt to dismiss its obligations in such a callous, off-handed manner.

Without going into the many mistakes in both content and judgment in the termination letter, I want to tell you that I am bitterly disappointed in the Digital performance of this contract and in its attempt to avoid responsibility for its own shortcomings. If Digital has corporate problems that preclude it from performing our contract, then the appropriate behavior on Digital's part would be to work with us to transition this job to a competent subcontractor. Given that Digital has a fixed price contract to deliver a fully working system, and given Gullotti's promise, Digital is required to employ a subcontractor at its own expense to ensure its performance. You would then be able to collect the established contract price from ARINC for the fully operational system when delivered.

My contracts people will, of course, be contacting Mr. Hall to formally deny Digital's alleged right to terminate the contract. I reject Digital's termination and would be happy to discuss with you any ideas you may have as to how Digital can cure its performance shortcomings.

Very truly yours,



Enclosure

Digital Equipment Corporation
6406 Ivy Lane
Greenbelt, Maryland 20770
301.459.7900

February 1, 1993

digital

Andrew T. Hospodor
Chairman and Chief Executive Officer
Aeronautical Radio Inc.
2551 Riva Road
Annapolis, MD 21401

RE: ADNS II Contract - Termination for ARINC's Default

Dear Andy:

As you know, Digital is committed to a long-term mutually beneficial relationship with ARINC. Digital has been working diligently to design and deliver an ADNS II network in conformance with the Contract. In the spirit of cooperation, we have patiently tried to work with ARINC to date to satisfy ARINC's requests, even for work outside the scope of the contract. We have tried to amicably resolve our differences. We are deeply disappointed we have not been allowed to perform the Contract.

Digital therefore must inform ARINC that ARINC has failed to perform its material obligations under the Contract. Accordingly, pursuant to Section F, para. 20, p486 of the Contract, Digital hereby terminates the Contract for ARINC's default. Digital is presently calculating its damages, including all its costs incurred to date, and will present ARINC with its damages calculation when complete.

Because you may not be fully aware of the situation, let me briefly describe some of the reasons for the termination:

1. ARINC Default: Rejection of Engineering Change Proposal #92100 for Time Division Multiplexer Elimination. By July 1992, Digital had performed considerable work under the Contract and delivered key documents pursuant to the Contract, including the System/Segment Specification, Network Design, Availability Prediction Report, Availability Model Documentation and System/Segment Design Document. All of this extensive work was based on a TDM-based design, as required by, e.g., Section C1-4, para. 3, p79. That work also adhered to the System Specification, Section C2, which specified requirements such as Network Performance, Availability and Reliability.

Digital Equipment Corporation

Mr. Andrew T. Hospodor

Page 2

February 1, 1993

In July 1992, however, ARINC unilaterally and without consultation with Digital eliminated TDMs from the design. Additionally, ARINC imposed materially new system requirements. These material changes required Digital to essentially redo its design, reliability and availability work, and required Digital to materially increase its risk, cost and obligation under the Contract. As a result, on August 5, 1992 pursuant to the Contract, Digital submitted ECP #92100. Even though ARINC did not accept ECP #92100, ARINC directed Digital to cease performance toward the Contract design and perform toward the new, non-Contractual requirements. Digital proceeded to do so at substantial cost. On December 22, 1992, Digital resubmitted ECP #92100, as ECP #92100 R1C1. On January 8, 1993, ARINC again refused to accept the ECP, directing Digital to make fundamental and material changes to it. Nonetheless, Digital continued performance toward the changed requirements, at continued substantial cost.

On January 25, 1993, Digital submitted its final ECP #92100, as ECP 92100 R1C2. On January 29, 1993, ARINC regrettably rejected ECP #92100. Digital cannot continue to expend substantial resources and funds toward a new design, one imposing materially different risk, cost and obligation on Digital, without materially different benefits per ECP #92100.

Indeed, by its unilateral material change in the required design and its continued rejection of ECP #92100, ARINC terminated the Contract. This termination constitutes a material breach of ARINC's obligation to permit Digital to perform under the Contract.

2. ARINC Default: Material Expansion of Contract Scope. ARINC repeatedly interfered with Digital's performance of the Contract by insisting that Digital perform substantial, material and excessive work beyond the scope of the Contract. There are numerous instances of this material breach, but here are a few examples:

- a. Requiring Digital to design for cost requirements. Section C2, System Specifications, specifies the criteria for system design. These criteria do not include cost requirements. ARINC's insistence that Digital design for cost requirements materially alters the design parameters and therefore the Contract. Furthermore, interjecting cost requirements, eliminating TDMs from the design, and insisting

Digital Equipment Corporation

Mr. Andrew T. Hospodor
Page 3
February 1, 1993

upon adherence to the original design specifications, are inherently inconsistent. ARINC accordingly has not only materially changed the Contract but materially increases Digital's risk, cost and obligation. This is particularly frustrating because Digital told ARINC about cost concerns with the Contract requirements, but ARINC insisted that ARINC was responsible for cost and Digital need not consider it.

b. Changing Contractual Point of Presence (POP) sites. The Contract, Section C-2, para. 1.3.1, p114, specifies the POP sites for the system design. Nonetheless, ARINC rejected Digital's design using these POP sites, and required Digital to perform substantial new analyses to select POP site locations.

c. Changing Contract definitions without specified acceptance criteria. By way of example of repeated ARINC conduct, DID 18 contains a definition of sensitivity analysis which Digital was required to and did use for the Availability Prediction Report. ARINC, however employed a new definition of sensitivity analysis in rejecting the APR. Furthermore, ARINC's refusal to establish criteria for an upper limit on the number of availability model runs that could result from ARINC's changed definition would commit Digital to unlimited, excessive and expensive work.

d. Imposing commercially unreasonable requirements inconsistent with the nature of the Contract. ARINC persisted in forcing Digital to perform innumerable analyses and wasteful iterations which serve no commercial purpose, are not called out in the Contract, and impair both Digital's and ARINC's ability to achieve the contract goal of designing and delivering a new ARINC network. For example, it is hardly consistent with the Contract purpose or spirit for ARINC to insist on excruciating detail for all possible combinations and permutations of operational scenarios, detailing all possible paths and subpaths for message traffic traversing the network.

3. ARINC Default: Rejection of deliverables conforming to the Contract. In June of 1992, Digital submitted key foundational deliverables, including the Network Design and the Availability Prediction Report. These documents conformed to the Contract, but ARINC wrongfully rejected them on noncontractual, minute and unspecified grounds. Digital could not and cannot successfully perform its further Contract obligations since ARINC refused to accept these foundational documents.

Digital Equipment Corporation

Mr. Andrew T. Hospodor
Page 4
February 1, 1993

4. ARINC Default: Failure to act in good faith. In addition to the above conduct, ARINC has displayed a continual pattern of what amounts to unfair dealing with Digital. For example:

a. ARINC applies its Standards arbitrarily and excessively, even compared with its own internal interpretation of those Standards. In fact, ARINC has admitted to Digital that its interpretation of Digital's obligations under the Standards are "seventeen times" more severe than ARINC's application of the Standards in other contexts. ARINC also has admitted that it has used the Digital documents, which ARINC pressured Digital to submit supposedly in conformance with the Standards, as a model to redesign its Standards upwards.

b. ARINC refuses to cooperate with Digital's efforts. By way of example, ARINC refused to participate on the Contractual Technical Review Board. Recently, ARINC has chosen to refuse to answer telephone calls by Digital Team members.

c. ARINC provides inconsistent direction, rejecting Digital work performed explicitly in the manner directed by ARINC. A graphic example involves ARINC Switching Centers. In its initial modelling and in conformance with the Contract, Digital recommended San Francisco as one of the ASCs. ARINC told Digital to change that ASC to Ferrelview, Missouri. Digital then re-performed the extensive modelling using that location. ARINC, however, subsequently directed Digital to resubstitute San Francisco for Ferrelview.

d. ARINC requires extensive work unrelated to Contract goals. ARINC's insistence upon repeated, extensive, detailed analyses at the design phase diverts Digital's resources from the goal of designing and delivering an operational network. Instead, ARINC directs Digital to expend its time producing a fusillade of hypothetical work detached from actual network operation. Again, as one example, reference ARINC's August 20, 1992 letter which acknowledges that the traffic data ARINC supplied needed to be modified, but ARINC directed Digital to redesign the system using the unmodified data.

It appears from ARINC's actions that ARINC does not want Digital to perform or complete the Contract. Whether that is because ARINC's business needs have changed, because ARINC

Digital Equipment Corporation

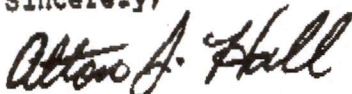
Mr. Andrew T. Hospodor
Page 5
February 1, 1993

does not want to pay Digital, because ARINC sees the Contract as a means of securing as much of Digital's knowledge and work product as possible, or because ARINC desires to use Digital as a knowledge base to allow ARINC to develop its network in-house, ARINC has materially prevented Digital from performing the Contract.

Again, Digital sincerely regrets the need for this letter, and Digital certainly would have preferred to be allowed to perform the Contract. However, ARINC has made that impossible.

For the reasons contained herein and for other reasons, please consider the Contract terminated for ARINC's default.

Sincerely,



Alton J. Hall
Vice President

ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

February 3, 1993

Mr. Robert Palmer
President
Digital Equipment Corporation
146 Main Street
Maynard, Massachusetts 01754

Dear Mr. Palmer:

Andrew T. Hospodor
Chairman and
Chief Executive Officer

In July 1991, ARINC awarded a fixed price systems integration contract to Digital for our ADNS II network. This network is to replace the backbone of our mission critical network which ties together the airlines and Civil Aviation Authorities in North America.

From the beginning, Digital has had technical performance and management difficulties which have resulted in serious delays in the program. It is obvious to us that the Digital team that bid the job was not the Digital team doing the job. Digital's ongoing failure to perform its contractual obligations has created a continuous need for ARINC to educate Digital both on the content of the job and the work efforts necessary for its completion. Indeed, several times during the last 17 months, I was compelled to draw Digital management's attention to the program to attempt to keep Digital on track in its obligation.

When ARINC and Digital entered into this contract, Russ Gullotti promised me that Digital would not fail to complete the ADNS II project. In subsequent conversations, Russ has remained cooperative and action-oriented. Last August, I expressed to Russ my deep concern over Digital's inability to perform the contract. In fact, during the Digital Leadership Forum, I warned Russ that, even at that late date, Digital's team in Landover viewed the job as a mere hardware sale and was not demonstrating the systems engineering abilities necessary to deliver a fully integrated, mission critical system. Because the ADNS II network is to carry much of the revenue producing traffic of the ARINC Companies, a failure by Digital in this system work would place the future of the ARINC Companies at risk. At the Forum, Russ offered, and I agreed to consider, the possibility that Digital would subcontract with another firm (even including hiring ARINC itself) to assist it in completing its responsibilities.

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2276

Mr. Robert Palmer
February 3, 1993
Page 2

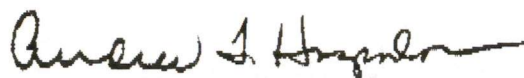
Because of Russ' offer and his earlier promise, I elected not to pursue termination of Digital for default at that time. Instead, I agreed to review the ADNS II project closely to determine if outside assistance would be useful. I also placed ARINC's lead engineers at Digital's disposal to work with Digital in its effort to perform the contract. As a result of ARINC's assistance, Digital finally created a preliminary representation of the system design in December 1992, many months behind schedule. Digital then informed us that the System Design Review (SDR), which the contract required by January 31, 1992, would not be completed until October 1, 1993 at the earliest.

In December, I advised Russ that ARINC contemplated asking CSC to work with ARINC and Digital to audit the ADNS II effort to date. I later advised Russ that CSC's involvement also could provide him the opportunity to follow through on his August offer. Instead of pursuing this potentially constructive course of action, Digital assigned Al Hall of your local sales office to propose to "renegotiate the contract." After several subsequent meetings in which I was unwilling to permit Digital to sidestep its contractual and personal commitments to perform the contract, Al Hall sent the attached letter purporting to terminate this contract based on ARINC's default. It is indeed surprising and sad to discover that Digital would attempt to dismiss its obligations in such a callous, off-handed manner.

Without going into the many mistakes in both content and judgment in the termination letter, I want to tell you that I am bitterly disappointed in the Digital performance of this contract and in its attempt to avoid responsibility for its own shortcomings. If Digital has corporate problems that preclude it from performing our contract, then the appropriate behavior on Digital's part would be to work with us to transition this job to a competent subcontractor. Given that Digital has a fixed price contract to deliver a fully working system, and given Gullotti's promise, Digital is required to employ a subcontractor at its own expense to ensure its performance. You would then be able to collect the established contract price from ARINC for the fully operational system when delivered.

My contracts people will, of course, be contacting Mr. Hall to formally deny Digital's alleged right to terminate the contract. I reject Digital's termination and would be happy to discuss with you any ideas you may have as to how Digital can cure its performance shortcomings.

Very truly yours,



Enclosure

Printed by Russ Gullotti @CORE

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 010525
Date: 29-Jan-1993 04:48pm EST
From: Rich Alpert Corporate Law
 alpert@AM_GAVEL@PKOMTS@MSO
Dept:
Tel No: 223-7559

TO: Russ Gullotti@core

Subject: ARINC Draft

Russ,

Al Hall suggested I send you this draft letter to ARINC so you are comfortable with the approach. We are still working on the paragraphs on ARINC's breach.

Regards.

file ARINC

February 2, 1993

W. A. Kiehl
Manager, Purchasing-Contracts
Aeronautical Radio Inc.
2551 Riva Road
Annapolis, MD 21401

RE: ADNS II Contract - Termination for Default

Dear Mr. Kiehl:

Digital is committed to a long-term mutually beneficial relationship with ARINC. Digital has been working diligently in pursuit of the Contract goal of designing and delivering an ADNS II network in conformance with the Contract. In the spirit of cooperation, we have patiently tried to work with ARINC to date to satisfy ARINC's requests, even for work outside the scope of the contract and even for work of no practical value. We have tried to amicably resolve our differences. We deeply wish we could have been allowed to perform the Contract. *to the Contract*

It is therefore with much regret that Digital feels it must inform ARINC that ARINC has failed to perform its material obligations under the Contract as more specifically identified below. Accordingly, pursuant to {{NAK}}F, {{DC4}} 20, p 486 of the Contract, Digital hereby terminates the Contract for ARINC's default. Digital is presently calculating its damages, including all its costs incurred to date, and will present ARINC with its damages calculation when complete.

1. ARINC Default: Rejection of Engineering Change Proposal #92100 for Time Division Multiplexor Elimination. By July 1992, Digital had performed considerable work under the Contract and delivered key documents pursuant to the Contract, including the Network Design, Availability Predictability Report, Availability Modeling Document and System/Segment Design Document, all based on the Contract requirement of a TDM-based network. In July 1992, however, ARINC unilaterally and without notice to Digital eliminated TDMS from the network design. This material change required Digital to essentially redo its design, reliability and availability work, materially increasing Digital's obligation under the Contract. As a result, on August 5, 1992 pursuant to the Contract, Digital submitted ECP #92100. Even though ARINC did not accept ECP #92100, and asked Digital to make certain changes to the ECP, ARINC directed Digital to cease performance toward the Contract network design (with TDMS) and perform toward the changed, non-TDM requirements. Digital proceeded to do so at a cost of some \$50,000 per week. On December 22, 1992, Digital resubmitted ECP #92100, as ECP #92100 R1C1. ARINC again refused to accept the ECP, directing Digital to make fundamental and material changes to the ECP. Nonetheless, Digital continued performance toward the changed (non-TDM) requirements, at a continued cost of approximately \$50,000 per week.

On January 25, 1993, Digital again submitted ECP #92100, as ECP 92100 R1C2. On January 29, 1993, ARINC regrettably rejected ECP #92100. Digital cannot continue to expend substantial resources and funds toward a new network design, one imposing materially different obligations on Digital than the contract requirements, without materially different benefits including the compensation per ECP #92100.

Indeed, ARINC's unilateral material change in the required network design and its rejection of ECP #92100 constitute a termination by ARINC of the Contract. ARINC directed Digital to cease performance toward the explicit TDM-based Contract design and directed Digital to perform toward a non-Contract network design, while at the same time refusing to accept ECP #92100 that acknowledges the consequent changes in Digital's obligation. By these actions ARINC terminated the TDM-based Contract.

2. ARINC Default: Material Expansion of Contract Scope. ARINC repeatedly has insisted that Digital perform substantial, material and excessive work beyond the scope of the Contract. There are numerous instances of this material breach, but here are a few examples:

- a. Requiring Digital to design for cost effectiveness. The Contract, {{NAK}}_____, specifies certain criteria for system design. These Contract requirements do not include cost effectiveness. ARINC's insistence that Digital design for cost effectiveness materially alters the parameters of the design and therefore the Contract. Furthermore, interjecting cost effectiveness, eliminating TDMs from the design, and insisting upon adherence to the original design specifications, are inherently inconsistent. ARINC accordingly has not only materially changed the Contract but rendered it technically impossible to achieve. This is particularly frustrating because Digital told ARINC about cost concerns with the Contract requirements, but ARINC insisted that ARINC was responsible for cost and Digital need not consider it.

- b. Changing Contractual Point of Presence (POP) sites. The Contract, {{NAK}} C-2, {{DC4}} 1.3.1, p 114, specifies the POP sites for system design. Nonetheless, ARINC rejected Digital's design using these POP sites, and required Digital to redesign using a different and various mixes of POP sites.

- c. Requiring Digital to perform sensitivity analysis for all components and all data. [Need explanation: E.g., Contract {{NAK}} _____ specifies ? However, ARINC rejected Digital's sensitivity analysis conforming to this Contract requirement, and insisted upon excessive, expensive, impractical and material work.]

- d. Changing Contract definitions: By way of example, ARINC insisted upon abandoning the Contractual MTTR (Mean Time To Repair) and instead using Mean Down Time broken down into further components.

*they will say
I added due
to unimportance*

e. Imposing commercially unreasonable requirements inconsistent with the nature of the Contract. ARINC persisted in forcing Digital to perform innumerable analyses and wasteful iterations which serve no commercial purpose, are not called out in the Contract, and impair both Digital's and ARINC's ability to achieve the contract goal of designing and delivering a new ARINC network. Again, just as one example, ARINC required Digital to model for 4,096 logical channels even though the Contract packet switches specified only a maximum of 2,048 logical channels (and actually used far fewer). Indeed, the purpose of design and modelling is to size the network as a first order, not establish at the design stage an inflexible network for projected use. ARINC also required Digital to meticulously abide by Standards originally designed for custom development of Critical Military Systems, not a commercial project using essentially commercial off-the-shelf products. It is hardly consistent with the contract purpose or spirit to insist, for example, on excruciating description of COTS functionality.

3. ARINC Default: Rejection of deliverables conforming to the Contract. In June (?) of 1992, Digital submitted key foundational deliverables, including the Network Design and the Availability Predictability Report. These documents conformed to the Contract, but ARINC rejected them on noncontractual, minute and unspecified grounds. Digital could not and cannot successfully perform its further Contract obligations if the iterative assumptions are not accepted by ARINC.

4. ARINC Default: Failure to act in good faith. In addition to the above conduct, ARINC has displayed a continual pattern of what amounts to unfair dealing with Digital. For example:

a. ARINC applies its Standards arbitrarily and excessively, even compared with its own internal interpretation of those Standards. In fact, ARINC has admitted to Digital that its interpretation of Digital's obligations under the Standards are "seventeen times" more severe than ARINC's application of the Standards in other contexts. ARINC also has admitted that it has used the Digital documents, which ARINC pressured Digital to submit supposedly in conformance with the Standards, as a model to redesign its Standards upwards.

b. ARINC refuses to cooperate with Digital's efforts. By way of example, ARINC refused to participate on the Contractual Technical Review Board. Recently, ARINC has chosen to refuse to answer telephone calls by Digital Team members.

c. ARINC provides inconsistent direction, rejecting Digital work performed explicitly in the manner directed by ARINC. A graphic example involves ARINC Switching Centers. In its initial modelling and in conformance with the Contract, Digital recommended San Francisco as one of the ASCs. ARINC told Digital to change that ASC to outside Kansas City. Digital then re-performed the modelling using that location. ARINC, however, rejected the

modelling a second time, precisely because it was based on a Kansas City location.

d. ARINC requires extensive work unrelated to Contract goals. ARINC's insistence upon repeated, extensive, detailed analyses at the design phase diverts Digital's resources from the goal of designing and delivering an operational network. Instead, ARINC directs Digital to expend its time producing a fusillade of hypothetical work detached from actual network operation. Again, as one example, reference ARINC's August 20, 1992 letter which acknowledges that the traffic data ARINC supplied needed to be modified, but ARINC directed Digital to redesign the system using the unmodified data.

It appears from ARINC's actions that ARINC does not want Digital to perform or complete the Contract. Whether that is because ARINC's business needs have changed, because ARINC does not want to pay Digital, because ARINC sees the Contract as a means of securing as much of Digital's knowledge and work product as possible, or because ARINC desires to use Digital as a knowledge base to allow ARINC to develop its network inhouse, ARINC has materially prevented Digital from performing the Contract.

Again, Digital sincerely regrets the need for this letter, and Digital certainly would have preferred to be allowed to perform the Contract. However, ARINC has made that impossible. Regrettably, please consider the Contract terminated for ARINC's default.

Sincerely,

Ben Burgis
Digital Equipment Corporation
ADNS II Program Manager

ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

file ARINC
3
cc Al - I can't answer this until I hear from ac Hall
Tom Gullotti / Bill O'Brien
FYI
Rum

January 25, 1993

Mr. Russell Gullotti
Vice President
Digital Services
Digital Equipment Corporation
Digital Drive
Merrimack, New Hampshire 03054

Dear Russ:

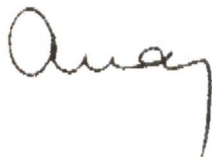
Andrew T. Hospodor
Chairman and
Chief Executive Officer

As we discussed in our recent phone conversation and as further explained to Al Hall when he visited last Monday, ARINC is planning to retain Computer Sciences Corporation (CSC) as a consultant to audit the ADNS II project effort. We would like to be able to proceed as expeditiously as possible. Although this audit will focus on Digital involvement, it will by necessity, also comment upon ARINC's participation.

In order to accomplish this goal, we must have the full cooperation of your entire Digital team. I request that you direct your program office to provide full disclosure of technical information and full cooperation in helping us to determine exactly where we are.

As you and I have discussed several times and as I mentioned to Al, one possible outcome of this effort is that Digital retain CSC to enable you to complete your contractual obligations to ARINC.

Very truly yours,



ARINC
2551 Riva Road
Annapolis, MD 21401

Phone Number: (410) 266-4056
Fax Number: (410) 266-4053

Telecopy Transmission Form

TO: Russ Gullotti
Digital

FROM: Andrew Hospodor
ARINC

DATE: 1/25/93

PAGES: 2

FAX NUMBER: 603-884-0864



I N T E R O F F I C E M E M O R A N D U M

Doc. No: 051548
Date: 22-Jan-1993 02:33pm EST
From: Tom Grilk @MRO
GRILK.TOM AT A1 AT MCIS3 AT MR
Dept: Law
Tel No: DTN: 297-4443

TO: RUSS GULLOTTI @MKO
CC: MARTIN HOFFMAN @CORE
CC: AL HALL @COP
Subject: ARINC

* PRIVILEGED COMMUNICATION *

*****ATTORNEY WORK PRODUCT*****

Russ:

A brief update on ARINC.

I spoke with Al yesterday concerning the results of some analysis done by one of our lawyers on this matter. I told him that my overall view is that this is a matter of sufficient complexity that I believe we would benefit from having the objectivity of a brief analysis by one of our outside lawyers. This process has been initiated and should be completed next week within the schedule requested by Al.

While I am usually quite comfortable to proceed on the basis of our internal people's analysis, this is one where I want to be sure that we do not become too taken with the strength of our own position.

Al is meeting or has met today with our inside lawyer in Landover (Kevin Hartley) and they will flesh out the details of this such that it is consistent with our business needs to get this resolved as swiftly as possible.

I want to make sure that we are in a position to take as strong and forceful a stance as possible here, undeterred by a concern for being surprised later. If we are uncertain of our position at the beginning, we can be certain that any negotiations will be considerably protracted. We are therefore aiming to be as strong as possible as quickly as possible.

Marty, I am forwarding to you, under separate cover, Kevin Hartley's

PHONE MEMO

TO

Russ

DATE

1/28

TIME

1:45

AM

PM

FROM

Al Hall

AREA CODE

NO.

339-5831

OF

EXT.

MESSAGE

re Arinic - pls call
urgent - Sec will get
him when you call

SIGNED

PHONED

CALL BACK

RETURNED CALL

WANTS TO SEE YOU

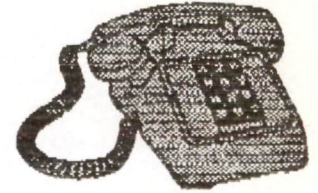
WILL CALL AGAIN

WAS IN

URGENT

SOUTHERN STATES PORTFOLIO TEAM

Digital Equipment Corporation
Capital Office Park
6406 Ivy Lane
Greenbelt, Maryland 20770



TO: Russ Gullotti DATE: 1/28/93
COMPANY: _____
TELEPHONE: 269-6209
FAX #: DTN: 269-0864 OUTSIDE: () _____

FROM: Al Hall # OF PAGES 2
DTN PHONE: 339-5831 OUTSIDE: (301) 918-_____
FAX #: DTN: 339-5848 OUTSIDE: (301) 918-5848

COMMENTS: Russ - this is the recommended response
to Andy's letter. Legal has reviewed it.

*changing design
no compensation
can't meet Spec.*

January 28, 1993

Mr. Andrew T. Hospodor
Chairman and Chief Executive Officer
ARINC
2551 Riva Road
Annapolis, MD 21401

Re: Audit of ADNS II Program

Dear Andy:

Thank you for your letter of January 25, 1993, proposing an audit of the ADNS II program by Computer Sciences Corporation (CSC).

I understand our contract specifies certain circumstances and procedures for an audit. While we are prepared to facilitate a pre-defined audit under the Contract, I trust you understand our concern about disclosing Digital proprietary material solely at your request.

Please ^{have CSC} contact Al Hall and list the specific material you wish to audit, for what purpose, and the contractual basis for the audit. ^{they}

Also, in order that Digital proprietary information may be shared with CSC, CSC must sign a non-disclosure agreement with Digital.

Regards,

Russ Gullotti

Still my intent to support the audit but need to protect what's ours -RD-

*Rich Alpert
Kenin H.*

*- Relationship going downhill
fact -
no returns or calls
by P.M.*

PHONE MEMO

TO

R

DATE

1-13

TIME

11

AM

PM

FROM

Andy Haspida

AREA CODE

NO.

410-266-4050

OF

EXT.

MESSAGE

Call scheduled
 for 1 - tomorrow

SIGNED

[Signature]

PHONED

CALL BACK

RETURNED CALL

WANTS TO SEE YOU

WILL CALL AGAIN

WAS IN

URGENT

Andy Hospidor 1/13/93

① SE. help to Dec
- CSC Werner Scher. Pres
SI

help for CSC - full disclosure
audit

arise or Dec.

help or complete for Dec

② Fixed price
- arise for default then can cut it
- Dec can't terminate - he can

③ No progress since August.

F Arinc

ARINC

2551 Riva Road
Annapolis, Maryland 21401-7465
410-266-4050

January 25, 1993

Mr. Russell Gullotti
Vice President
Digital Services
Digital Equipment Corporation
Digital Drive
Merrimack, New Hampshire 03054

Dear Russ:

Andrew T. Hospodor
Chairman and
Chief Executive Officer

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Very truly yours,

