STATEMENT OF CONSIDERATIONS

REQUEST BY A. RAYMOND TINNERMAN MANUFACTURING INC. (RAYMOND TINNERMAN) FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN PATENT RIGHTS UNDER DOE AWARD NO. DE-EE0005438; W(A) 2012-011

RAYMOND TINNERMAN has requested a waiver of domestic and foreign patent rights of the United States of America in all subject inventions arising from its participation under the above-referenced cooperative agreement entitled "Quick Snap Bracket Assembly for Solar Panels."

The cooperative agreement was awarded under topic 2 (Roof and Ground Mount Innovations) of the Extreme Balance of System Hardware (BOS-X) Funding Opportunity Announcement (DE-FOA-0000493) to develop "extremely low installed cost (materials and associated labor) technologies for applications where structural roof or ground-mounting mechanisms are required."

The project funded by the cooperative agreement is to develop an extremely low installed cost technology solution for commercial roof mounted solar panels. Specifically, according to the SOPO, the objectives of the project include (1) developing an innovative, quick snap bracket assembly, bonded to frameless solar panels for commercial rooftop installations, including flat roofs and standing seam metal roofs, resulting in a significant reduction in the amount of bracket hardware; (2) developing a pultruded rail for flat roof installations to function as the panel rack, which utilizes the same bracket assembly used for standing seam metal roofs; and (3) in partnership with a roofing company, piloting the certification of a commercial roof to be solar panel compliant, eliminating the need for structural analysis and government oversight for the adding of the solar array, resulting in significantly decreased permitting costs.

The cooperative agreement has three phases. The total anticipated cost of the cooperative agreement, including the three phases is $3,025,000 with RAYMOND TINNERMAN providing $1,355,000 as cost share for a cost share percentage of 44.8%. This waiver is contingent upon RAYMOND TINNERMAN maintaining this cost share commitment.

As set forth in its petition, RAYMOND TINNERMAN has a long history (over 150 years) of developing connectors and fasteners for a wide range of applications. RAYMOND TINNERMAN is a result of a merger between A Raymond and Tinnerman. A Raymond formed in 1865 initially focused on snap fasteners for clothing and eventually expanded to fasteners and connections for automotive, solar, housing, construction, HVAC, electronics and other applications. Similarly, Tinnerman created a spring steel fastener known as the speed nut in 1936 to resolve an issue in stove shipping but eventually expanded to fasteners for aircraft, automotive home electronics, heavy truck and agriculture. In 2009, RAYOMND TINNERMAN was formed. While automotive remains a strong base for RAYMOND TINNERMAN, RAYMOND TINNERMAN has dedicated its resources to the solar business as well.

RAYMOND TINNERMAN is currently launching several products (e.g., connection systems) for the solar market, including its "improved present" bracket technology . RAYMOND TINNERMAN has several pending U.S. patent applications directed to solar fastening and mounting.

RAYMOND TINNERMAN has opened a new sales and engineering center in California dedicated to the solar market. RAYMOND TINNERMAN also has existing design, engineering, and support staff in its offices in Michigan that it can rely on to support its solar projects. RAYMOND TINNERMAN's existing manufacturing facilities in Ohio and Kentucky can also be used to supply the solar market. These two facilities traditionally have been used to service the automotive market. Due to a lesser demand in the automotive market, RAYMOND TINNERMAN's Kentucky facility was likely to close. However, RAYMOND TINNERMAN has been able to keep that facility open due to its increasing demand in the solar market.

RAYMOND TINNERMAN has agreed that this waiver shall be subject to the march-in and preference for U.S. industry provisions, as well as the U.S. Government license, comparable to those set out in 35 U.S.C. 202-204. RAYMOND TINNERMAN cannot agree to the standard U.S. competiveness due to its need to use its proprietary bonding tablets manufactured only in one of its facilities in France. However, RAYMOND TINNERMAN has agreed that the other components of the bracket shall be manufactured in the U.S. Specifically, this waiver shall be conditioned on any stamped metal (under 200 ton) or molded plastic components for the bracket being manufactured in the U.S. and all design, engineering, and prototyping for the bracket being conducted in the U.S. The manufacturing commitment shall apply to any licensee or assignee of any invention waived under this waiver. (See paragraph (t) at the end of this SOC for the specific U.S. competitiveness provision to be used).

Referring to item 10 of the waiver petition, in granting this waiver, RAYMOND TINNERMAN does not expect that the granting of the waiver will have an anti-competitive effect. The market is already competitive with many companies, including current market leaders S-5 Inc. and Metal Roof Innovations, offering mounting systems. The ability of these other companies to continue to offer their mounting systems should not be impacted by a waiver.

Considering the foregoing, it is believed that granting this waiver will provide RAYMOND TINNERMAN with the necessary incentive to invest its resources in commercializing the results of the cooperative agreement in a manner that will make the above technology available to the public in the shortest time. Therefore, upon evaluation of the waiver petition and in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver be granted.

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Glen R. Drysdale
Patent Attorney
Golden Field Office

Date:_____

Based upon the foregoing Statement of Considerations and representations in the attached waiver petition, it is determined that the interests of the United States and the general public will best be served by a waiver of patent rights of the scope determined above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of the cooperative agreement, where through such modification or extension, the purpose, scope, or cost of the agreement has been substantially altered.

CONCURRENCE:

[redacted]

Minh Le
Acting Program Manager
Solar Energy Technologies Program

Date: 10-23-12

APPROVAL:

[redacted]

John T. Lucas
Assistant General Counsel for Technology
Transfer and Intellectual Property

Date: 10-26-2012

(t) U. S. Competitiveness

(1) DOE and the Contractor acknowledge that the project being funded, at least in part, by this agreement is to develop a quick-snap bracket assembly for solar panels. The Recipient agrees, as a condition of DOE waiving certain rights to any subject invention under this agreement pursuant to this patent rights clause, that any stamped metal (under 200 ton) or molded plastic components for the bracket shall be manufactured in the U.S. and all design, engineering, and prototyping for the bracket shall be conducted in the U.S.

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(2) The Contractor may ask for a waiver or modification to this U.S. competitiveness provision by demonstrating to the satisfaction of DOE that compliance with the U.S. competitiveness provision is no longer commercially feasible. In the event DOE agrees to a waiver or modification, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, *e.g.*, recoupment of the Government's investment, etc. The Contractor further agrees to make the above condition binding on any assignee or licensee or any entity otherwise acquiring rights to any waived subject invention, including subsequent assignees or licensees. Should the Contractor or other such entity receiving rights in any waived subject invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license or other transfer of rights in any waived subject invention is suspended until approved in writing by DOE.