

**Boeing Shared Services Group
EDUCATION AND TRAINING (OFF-THE-SHELF)
TERMS AND CONDITIONS**

1. CONTRACT ACCEPTANCE

This Contract includes the provisions in the Contract, these Education and Training Terms and Conditions, and all of the specifications, technical descriptions, statements of work, drawings, designs, documents, and other requirements and provisions attached to, incorporated into, or otherwise made a part of this Contract by Buyer (collectively, the "Contract"). Buyer shall not be bound by and specifically objects to any term or condition whatsoever that is different from or in addition to the provisions of this Contract, whether or not such term or condition will materially alter this Contract. Seller commencement of performance, or acceptance of this Contract, in any manner shall be conclusive evidence of agreement to this Contract as written.

2. DEFINITIONS

Whenever used in this Contract, the following terms, when capitalized, shall have the following meanings:

"Buyer" means The Boeing Company and any of its affiliates, divisions, or wholly owned subsidiaries.

"Buyer's Authorized Procurement Representative" means the representative of Boeing Shared Services Group, Supplier Management department identified in the Contract and as may be changed by written notice, who is authorized by Buyer to act on behalf of Buyer in business transactions with Seller.

"Seller" means the party identified in the Contract who agrees to sell Work.

"Work" means services performed or to be performed by Seller or its employees under the Contract.

"Work Product" means all tangible items delivered to Buyer pursuant to this Agreement, including but not limited to computer software and its documentation.

3. ORDER OF PRECEDENCE

In the event of any inconsistency within or relating to this Contract, the following order of precedence will apply:

- a. These Education and Training Terms and Conditions.
- b. The Contract.
- c. The specifications, technical descriptions, statements of Work, schedules, drawings, and designs prepared by or at the direction of Buyer.
- d. The specifications, technical descriptions, Statements of Work, schedules, drawings, other than those described in paragraph c., prepared by Seller, including without limitation those contained in Seller's proposal that have been authorized by Buyer.

4. PAYMENTS

- a. Price. All Work shall be performed at the prices set forth in the Contract.
- b. Invoices and Payments. Payment will be made as set forth in the Contract. Seller shall promptly repay to Buyer any amounts paid in excess of the amounts due Seller.

5. LABOR AND PERSONNEL

- a. Standards. Seller shall assign agents, representatives and employees (collectively, "Seller Personnel") satisfactory to Buyer. At any time and for any reason, Buyer may require Seller to withdraw the services of any Seller Personnel and require that Seller promptly provide replacements for such Seller Personnel

satisfactory to Buyer. In addition to the other indemnification provisions within this Contract, Seller specifically agrees to indemnify and hold harmless Buyer from and against any liabilities, claims, charges or suits for alleged losses, costs, damages or expenses arising from Buyer's exercise of its rights hereunder.

Resumes, references, or other information reflecting the qualifications of any Seller Personnel will be provided by the Seller to the Buyer. Seller warrants that each resume submitted represents a complete and accurate description of the Seller Personnel and their relevant skills. Misrepresentation, gross omissions, or falsifications will be cause for removal of Seller Personnel. If required by state law or regulations, Seller and its Seller Personnel shall be properly licensed, certified, or registered.

- b. Expenses. Seller shall be compensated for reasonable expenses incurred by Seller Personnel who are required to travel to perform the Work at Buyer's location, including travel, living expenses, and local transportation to the extent expressly permitted in the Contract.
- c. Recruitment. Seller agrees that it will not actively solicit for hire the employees of Buyer during or for a period of six months after completion of Seller's performance of the Work unless written approval is obtained from Buyer.
- d. Discipline of Personnel. Discipline of Seller Personnel performing Work hereunder shall be Seller's responsibility. While on premises under Buyer's control, Seller Personnel shall comply with all the rules and regulations established by Buyer for access to and activities in and around premises controlled by Buyer, its customers or vendors.

6. RELATIONSHIP OF THE PARTIES

Independent Contractor. Seller is an independent contractor for all purposes. Seller shall have complete control over the performance of, and the details for accomplishing, the Work. In no event shall Seller or Seller Personnel be deemed to be agents, representatives or employees of Buyer. Seller Personnel shall be paid exclusively by Seller for all Work performed. Seller shall comply with all requirements and obligations relating to such employees under federal, state and local law (or foreign law, if applicable). Such compliance shall include, but not be limited to, laws regarding minimum wages, social security, unemployment insurance, federal and state income taxes and workers' compensation insurance.

7. CONFIDENTIAL OR PROPRIETARY INFORMATION AND PROPERTY

- a. Buyer and Seller shall each keep confidential and protect from unauthorized use and disclosure all (i) confidential, proprietary and/or trade secret information; (ii) tangible items and software containing, conveying or embodying such information; that is obtained, directly or indirectly, from the other in connection with this Contract or other agreement referencing this Contract, (collectively referred to as "Proprietary Information and Materials"). Buyer and Seller shall each use Proprietary Information and Materials of the other only in the performance of and for the purpose of this Contract and/or any other agreement referencing this Contract.
- b. Upon Buyer's request at any time, and in any event upon the completion, termination or cancellation of this Contract, Seller shall return to Buyer all of Buyer's Proprietary Information and Materials and all materials derived therefrom, unless specifically directed otherwise in writing by Buyer.
- c. Seller may disclose Proprietary Information and Materials of Buyer to its subcontractors as required for the performance of this Contract, provided that each such subcontractor first agrees in writing to the same obligations imposed upon Seller under this article. Seller shall be liable to Buyer for any breach of such obligation by such subcontractor.
- d. The provisions of this article are effective notwithstanding the application of any restrictive legends or notices to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this Contract.

8. CHANGES

Only Buyer's Authorized Procurement Representative may approve changes in any requirements under this Contract. Buyer's Authorized Procurement Representative may at any time, by written order, make changes, within the general scope of this Contract, in any one or more of the following: any specifications, requirements or statement of Work; level of effort or manpower; place of performance; performance or deliver schedules; and the amount of Buyer-furnished property.

Seller shall proceed immediately to perform this Contract as changed. If any such change requires an increase or decrease in any rate or in the sum allotted provided for in this Contract, or in the time required for the performance of any part of the Work under this Contract, whether changed or not changed by any such order, or otherwise affect any other provisions of this Contract, an equitable adjustment shall be made in the sum allotted, rates, performance schedule, and in such other provisions of this Contract as may be so affected, and this Contract shall be changed or modified in writing accordingly.

Any claim by Seller for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by Seller of such written direction. Failure of Buyer and Seller to agree upon any adjustment shall not excuse Seller from performing in accordance with such direction.

9. NOTICE OF ACTUAL OR ANTICIPATED DELAYS OR DEFICIENCIES

Whenever Seller has knowledge of any actual or anticipated deficiency or delay in performance for any reason, including an actual or potential labor dispute, Seller shall immediately notify and submit all relevant information to Buyer. If requested by Buyer, Seller shall use additional effort, including premium effort, to correct any deficiency or avoid or minimize delay to the maximum extent possible. All of the cost associated with this additional effort shall be borne by Seller; the rights and remedies of Buyer under this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or elsewhere under the Contract.

10. TERMINATION FOR CONVENIENCE

Performance of Work under this Contract may be terminated in whole or in part at any time by Buyer by giving Seller written notice of such termination, specifying the extent and effective date thereof. After receipt of any such notice, Seller shall stop work hereunder to the extent it relates to the Work terminated and, to the extent requested by Buyer, deliver to Buyer, all completed or partially completed data, writings, recordings, pictures, drawings, and other information and items produced or obtained in the performance of Work under this Contract. In the event of any termination pursuant to this clause, Seller shall be paid for all Work performed hereunder and any travel, per diem, or other costs or allowances due hereunder. Seller shall have no claim against Buyer for Work not performed, anticipatory profits lost, or consequential damages directly or indirectly caused by any such termination. Except as provided in this clause, any such termination shall not alter or affect the rights or obligations of the parties under this Contract.

11. RESPONSIBILITY FOR PERFORMANCE

Seller warrants that it has the legal right to enter into and perform its obligations under this Contract, including without limitation the right to provide Software as necessary. Buyer issuance of this Contract is based on Buyer reliance upon Seller's ability, expertise, and awareness of the intended use of the Work, and Seller's continuing compliance with all applicable laws and regulations during the performance of this Contract. Further, Seller shall not, by contract, operation, or otherwise, assign any or its rights or interest in this Contract, including but not limited to any monies due or to become due, or delegate any of its duties or obligations under this Contract, or subcontract all or substantially all of its performance of this Contract to one or more third parties, without Buyer's prior written consent. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this Contract.

12. RECORDS AND AUDIT

For a period no less than three (3) years after final payment under each and every Contract, Seller shall maintain complete and accurate books, records, documents, and other evidence of the time worked, costs, expenses, and allowances pertaining to this Contract (hereinafter collectively called "records") to the extent and in such detail as will properly reflect all net costs (direct and indirect) of labor, materials, equipment, supplies, and services and

other costs and expenses of whatever nature. Buyer shall have the right to examine, reproduce, and audit any and all records:

- a. Related to pricing and performance in order to evaluate the accuracy, completeness, and currency of cost and pricing data submitted with Seller's bid or offer to sell;
- b. Related to "Changes" or "Termination for Convenience," or
- c. Related to pricing and performance in order to verify the accuracy of prices and rates invoiced by Seller. Such audit right for any given Contract will consist of the following:
 - (1) A random invoice sampling of at least five percent (5%);
 - (2) The determination of an error rate, if any; and
 - (3) The calculation of an adjustment amount by applying the percentage error rate to the total current aggregate dollar expenditure figure for the entire time period in question and then adding approximate freight and tax considerations.

13. WORK PRODUCT

- a. Delivery. Seller shall deliver the Work Product in accordance with the item description and schedule set forth in the Contract.
- b. Buyer Rights. Buyer shall have a license to use, modify, reproduce and distribute for Buyer internal purposes only the Work Product, including but not limited to training of Buyer's employees.
- c. Copyrights. All copyrights subsisting in the Work Product shall remain the sole and exclusive property of the Seller, subject to Buyer's rights in Section 13.b above.
- d. Buyer Customers and Suppliers. Seller acknowledges that from time to time Buyer may invite their customers, suppliers, or other interested non-Buyer parties to participate in classes or presentations that involve Work Product. Buyer agrees that such customers, suppliers, or other non-Buyer parties will not receive actual copies of Work Product, but may freely make use of Work Product during such classes or presentations.

14. SUBCONTRACTING

Seller shall not resell or subcontract any of the personnel utilized or services to be performed under the Contract without the prior written consent of Buyer.

15. INFRINGEMENT

Seller will indemnify, defend and hold harmless Buyer and its customer from all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the Seller's provision of the Work and/or sale or use of the Work Product by either Buyer or its customer. Buyer and/or its customer will duly notify Seller of any such claim, suit or action. Seller will, at its own expense, fully defend such claim, suit or action on behalf of the indemnitees. Seller will have no obligation under this article with regard to any infringement arising from use of the Work or Work Product (i) for other than its intended application, or (ii) in combination with other items when such infringement would not have occurred from the use of the Work by Buyer solely for the purpose for which they were designed or sold by Seller. For purposes of this article only, the term Buyer will include The Boeing Company and all Boeing subsidiaries and all officers, agents and employees of Boeing or any Boeing subsidiary.

16. TAXES

- a. If any federal, state, or local sales or use tax (or its equivalent) is legally due on taxable Goods purchased, Seller will separately bill such tax on its invoice to Buyer. Buyer agrees to pay Seller for such tax or if such tax is not applicable to the Goods purchased, it will be so noted on the Contract and Buyer shall provide appropriate exemption statements and information on its Contract acceptable to the taxing authority.
- b. All other taxes, including, but not limited to federal, state, and local income taxes, franchise taxes, gross receipts taxes, federal, state, and local sales and use taxes, and property taxes shall be the responsibility of the party who incurs the tax liability.
- c. For tax purposes, the items purchased under this contract by Shared Services Group, Supplier Management and Procurement may be purchased for Buyer or as agent for one of Buyer's subsidiaries.

17. GENERAL PROVISIONS

- a. Severability. If any provision of this Contract shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.
- b. Waiver. Either party's failure to exercise any of its rights under this Contract shall not constitute a waiver of any past, present, or future right or remedy.
- c. Survival. All indemnities, warranties, and representations made under this Contract and all accrued obligations under the clause entitled "Proprietary Information" will survive cancellation or termination of this Contract. Cancellation or termination of this Contract will not affect operation of those provisions of this Contract that, by their terms, survive or are required to survive in order to effectuate the intent of the parties as reflected by this Contract.
- d. Rights and Remedies. Except as limited under this Contract, the rights and remedies afforded to each party under this Contract are in addition to any other rights or remedies, at law or in equity, or otherwise.
- e. Right to Offset. Buyer, without waiver or limitation of any of its rights or remedies, shall be entitled from time to time to deduct from any amounts due or owing by Buyer to Seller in connection with this Contract any and all amounts owed by Seller to Buyer in connection with this Contract.
- f. Entire Agreement. This Contract, together with all the purchase orders, change orders, attachments, exhibits, supplements, specifications, and other terms referenced in this Contract, contains the entire agreement of the Parties and supersedes any and all prior agreements, understandings and communications between Buyer and Seller related to the subject matter of this Contract. Except as authorized herein, no amendment or modification of this Contract shall bind either Party unless it is in writing and is signed by Buyer's Authorized Procurement Representative and an authorized representative of Seller.
- g. Financial Review. If the Contract exceeds \$250,000 and extends for more than one year, and if requested, the Seller shall provide financial data on a quarterly basis or as requested to the Buyer's Credit Office for credit and financial condition reviews. Said data shall include but not be limited to balance sheets, schedule of accounts payable and receivable, major lines of credit, creditors, income statements (profit and loss), cash flow statements, firm backlog, and headcount. Copies of such data are to be made available within 72 hours of any written request by Buyer. All such information shall be treated as confidential.
- h. Code of Basic Working Conditions and Human Rights. Buyer is committed to providing a safe and secure working environment and the protection and advancement of basic human rights in its worldwide operations. In furtherance of this commitment, Buyer has adopted a Code of Basic Working Conditions and Human Rights setting out in detail the measures it takes to ensure this commitment is fulfilled. The Boeing Code may be downloaded at <http://www.boeing.com/employment/culture/code.html>. Buyer strongly encourages Seller to adopt and enforce concepts similar to those embodied in the Boeing Code,

including conducting Seller's operations in a manner that is fully compliant with all applicable laws and regulations pertaining to fair wages and treatment, freedom of association, personal privacy, collective bargaining, workplace safety and environmental protection. Seller will promptly cooperate with and assist Buyer in implementation of and adherence to the Boeing Code.

Further, any material violation of law by Seller relating to basic working conditions and human rights, including laws regarding slavery and human trafficking, of the country or countries in which Seller is performing work under this Contract may be considered a material breach of this Contract for which Buyer may elect to cancel any open orders between Buyer and the Seller, for cause, in accordance with the provision of this order entitled "Cancellation for Default" or exercise any other right of Buyer for an Event of Default under this Contract.

Seller shall include the substance of this clause, including this flowdown requirement, in all subcontracts awarded by Seller for work under this Contract.

18. PUBLICITY

Seller shall not use the name of Buyer in any news release, public announcement, advertisement, or other form of publicity, or disclose any of the terms of this Contract to any third party, without securing the prior written consent of Buyer.

19. ASSIGNMENT OR TRANSFER

Neither this Contract nor any rights or obligations under it may be assigned, delegated, or otherwise transferred (whether voluntary, involuntary, by merger, change of control, consolidation, dissolution, operation of law, transfer or any other manner) by Seller without the prior written consent of Buyer. Any attempt to assign or delegate in violation of this article is void.

20. NOTICES

Any notice, authorization, designation, request, or instruction under or in connection with this Contract to be effective shall be in writing and shall be deemed duly given or served upon delivery, addressed as set forth below. Either party may notify the other in the foregoing manner of any other address to which such communications are to be addressed under this Contract.

Seller:

Buyer:

The Boeing Company
Shared Services Group
Supplier Management & Procurement
____ P.O. Box Number or Street Address ____
____ City, State, and Zip Code ____

Attention:

Attention:

21. GOVERNING LAW

This Contract shall be construed under and governed by the internal laws of the State of Washington, without regard to conflict of law provisions. The prevailing party in any litigation arising out of this Contract shall be entitled to recover its reasonable attorneys' fees and costs from the losing party.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed in duplicate originals by their duly authorized representatives.

THE BOEING COMPANY
(Acting through its Division,
Boeing Shared Services Group)

SELLER

By _____
Name _____
Title _____
Date _____

By _____
Name _____
Title _____
Date _____