

1. **FORMATION OF CONTRACT.** This proposed contract is Buyer's offer to purchase the goods and services ("Goods") described in this offer. Acceptance is strictly limited to the terms and conditions in this offer. Unless specifically agreed to in writing by the Buyer's Authorized Purchasing Representative, Buyer objects to, and is not bound by, any term or condition which differs from or adds to this offer. Seller may accept this offer by beginning performance or by a written or electronic acknowledgment. Such acceptance creates a binding contract.

2. **SCHEDULE.**

(a) Seller shall strictly adhere to the shipment or delivery schedules specified in this contract. In the event of any anticipated or actual delay, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii), if requested by Buyer, ship via air or expedited routing to avoid or minimize delay to the maximum extent possible, unless Seller is excused from prompt performance as provided in the "Excusable Delays" clause. The added premium transportation costs are to be borne by Seller and not considered as an allowable cost under this contract.

(b) Seller shall not deliver Goods prior to the scheduled delivery dates unless authorized by Buyer.

3. **PACKING AND SHIPPING.**

(a) Seller shall pack the Goods to prevent damage and deterioration. Seller shall comply with carrier tariffs. Unless this contract specifies otherwise, the price includes shipping charges for Goods sold F.O.B. destination. Unless otherwise specified in this contract, Goods sold F.O.B. place of shipment shall be forwarded collect. Seller shall make no declaration concerning the value of the Goods shipped, except on the Goods where the tariff rating is dependent upon released or declared value. In such event, Seller shall release or declare such value at the maximum value within the lowest rating. Buyer may charge Seller for damage to or deterioration of any Goods resulting from improper packing or packaging.

(b) Seller will ship the Goods according to the following instructions: (i) Shipping Documentation: Shipments by Seller or its subcontractors must include packing sheets containing Buyer's purchase contract number, line item number, description and quantity of Goods shipped, part number or size, if applicable, and appropriate evidence of inspections. A shipment containing hazardous and nonhazardous materials must have separate packing sheets for the hazardous and nonhazardous materials. Items shipped on the same day will be consolidated on one Bill of Lading or Airbill, unless Buyer's Authorized Purchasing Representative authorizes otherwise. The shipping documents will describe the material according to the applicable classification and/or tariff. The total number of shipping containers will be referenced on all shipping documents. Originals of all Government Bills of Lading will be surrendered to the origin carrier at the time of shipment. (ii) Insurance: Seller will not insure any FOB Origin shipment unless authorized by Buyer.

(iii) Shipping Container Labels: Seller will label each shipping container with the purchase contract number and the number that each container represents of the total number being shipped (e.g., Box 1 of 2, Box 2 of 2). (iv) Carrier Selection: Buyer will select the carrier and mode of transportation for all shipments where freight costs will be charged to Buyer. (v) Invoices: Seller will include copies of documentation supporting prepaid freight charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices. (vi) Noncompliance: If Seller is unable to comply with the shipping instructions in this contract, Seller will contact Buyer's Traffic Management Department referenced elsewhere in this contract or Buyer's Authorized Purchasing Representative.

4. **QUALITY CONTROL**. Seller shall establish and maintain a quality control system acceptable to Buyer for the Goods purchased under this contract. Seller shall permit Buyer and Buyer's customer to review procedures, practices, processes and related documents to determine such acceptability.

5. **SELLER NOTICE OF DISCREPANCIES**. Seller shall notify Buyer in writing when discrepancies in the Seller's process or product are discovered or suspected which may affect the Goods delivered or to be delivered under this contract.

6. **INSPECTION OF SUPPLIES**. (Applicable only if supplies will be delivered.) FAR 52.246-3, "Inspection of Supplies - Cost Reimbursement," is incorporated by reference. "Contractor" means Seller, "Government" means Buyer and in paragraph (f) "6 months" is revised to read "12 months."

7. **INSPECTION OF SERVICES**. (Applicable only if services will be provided.) FAR 52.246-5, "Inspection of Services - Cost-Reimbursement," is incorporated by reference. "Contractor" means Seller and "Government" means Buyer.

8. **WARRANTY**. Seller warrants that any hardware, software and firmware product delivered under this contract shall be able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it. The duration of this warranty and the remedies available to Buyer for breach of this warranty shall be as defined in, and subject to, the other warranties contained in this contract, provided that notwithstanding any provision to the contrary in such warranties, the remedies available to Buyer under this warranty shall include repair or replacement of any non-compliant product discovered and made known to Seller in writing. Nothing in this warranty shall be construed to limit any rights or remedies Buyer may otherwise have under this contract with respect to defects other than Year 2000 performance.

9. **LIMITATION OF COST**. (Applicable if this contract is fully funded.) FAR 52.232-20, "Limitation of Cost," is incorporated by reference. "Schedule" means this contract, "Contractor" means Seller and "Government" and "Contracting Officer" mean Buyer. The word "exclusive" in the first sentence of paragraph (a) is revised to "inclusive" and paragraph (d)(1) is revised to read:

"(1) The Buyer is not obliged to reimburse the Seller for costs incurred and fee in excess of (i) the estimated cost and fee specified in the contract or, (ii) if this is a cost-sharing contract, the estimated cost to the Buyer specified in the Contract."

10. LIMITATION OF FUNDS. (Applicable if this contract is incrementally funded.). FAR 52.232-22, "Limitation of Funds," is incorporated by reference. "Schedule" means this contract, "Contractor" means Seller "Government" and "Contracting Officer" means Buyer. The word "exclusive" in the second sentence of paragraph (b) is revised to "inclusive" and subparagraph (f)(1) is revised to read:

"(1) The Buyer is not obliged to reimburse the Seller for costs incurred and fee in excess of the total amount allotted by the Buyer to this contract; and"

11. TAXES. Unless otherwise specified in this contract, the price of this contract includes, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this contract except for sales and use taxes for which Buyer specifically agrees to pay and which are separately stated on Seller's invoice. Prices shall not include any taxes, impositions, charges and exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption.

12. INVOICE AND PAYMENT.

(a) Unless otherwise authorized by Buyer, Seller shall issue a separate original invoice for each delivery, which shall include Buyer's purchase contract number and line item number. Seller shall not issue any invoice prior to the scheduled or actual delivery date, whichever is later. Unless freight or other charges are itemized, Buyer may take any offered discount on the full amount of the invoice. Payment due date, including discount periods, shall be computed from the date of the later of the scheduled delivery date, the actual delivery date, or the date of receipt of a correct invoice. Payment shall be deemed to have been made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of amounts due Seller.

(b) Payment of fee will be made in monthly installments based upon the percentage of completion of this contract, as determined by Buyer. Payment will be deemed made on the date that Buyer's check is mailed or otherwise tendered.

(c) Except as provided in this article, payment will be made in accordance with the following clauses of the Federal Acquisition Regulations ("FAR"), which are incorporated by reference. In each of the following clauses, "Contractor" means Seller, "Contracting Officer" and "Government" mean Buyer and "Disputes Clause" means the Disputes Clause of this contract.

- (1) FAR 52.216-7 Allowable Cost and Payment
- (2) FAR 52.216-8 Fixed Fee, if this is a cost-plus-fixed fee contract
- (3) FAR 52.216-10 Incentive Fee, if this is a cost-plus-incentive fee contract. Paragraph (e) is set forth in full elsewhere in this contract.

13. CHANGES.

(a) Buyer's Authorized Purchasing Representative may, without notice to sureties, in writing direct changes within the general scope of this contract in any of the following: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; and, if this contract includes services, (vi) description of services to be performed; (vii) time of performance (i.e., hours of the day, days of the week, etc.); and (viii) place of performance. Seller shall comply immediately with such direction.

(b) If such change increases or decreases the cost or time required to perform this contract, the parties shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this contract in writing accordingly. Unless otherwise agreed in writing, Seller must assert any claim for adjustment to Buyer's Authorized Purchasing Representative in writing within 25 days and deliver a fully supported proposal to Buyer's Authorized Purchasing Representative within 60 days after Seller's receipt of such direction. Buyer may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer may direct the disposition of the property. Buyer may examine Seller's pertinent books and records to verify the amount of Seller's claim. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction.

(c) If Seller considers that Buyer's conduct constitutes a change, Seller shall notify Buyer's Authorized Purchasing Representative immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Buyer's Authorized Purchasing Representative, Seller shall take no action to implement any such change.

(d) Notwithstanding the foregoing provisions of this clause, the estimated or target cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof shall not be increased or deemed to be increased except by specific written modification of this contract indicating the new contract estimated cost and the new amount allotted to this contract. Until such modification is made, the Seller shall not be obligated to continue performance or incur costs beyond the point established in the clauses of this contract entitled "Limitation of Cost" and "Limitation of Funds."

14. DISPUTES. Any dispute that arises under or is related to this contract that cannot be settled by mutual agreement of the parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.

15. EXCUSABLE DELAYS. FAR 52.249-14, "Excusable Delays," is incorporated by reference. "Contractor" means Seller and "Contracting Officer" means Buyer.

16. TERMINATION/CANCELLATION.

(a) The performance of work under this contract may be terminated in whole or in part by Buyer in accordance with the Termination clause, set forth in FAR 52.249-6 which provisions except for subparagraphs (e) and (j), is incorporated herein by reference. "Government" and "Contracting Officer" mean Buyer and the phrase "1 year" is deleted each place it occurs and "six months" is substituted in its place.

(b) By written notice, Buyer may cancel the whole or any part of this contract in the event of Seller's default of any or all of the requirements of this contract, or in the event of suspension of Seller's business, insolvency of Seller, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property or business or any assignment, reorganization or arrangement by Seller for the benefit of creditors.

17. ASSIGNMENT, DELEGATION AND SUBCONTRACTING. Seller shall not assign any of its rights or interest in this contract or subcontract all or substantially all of its performance of this contract, without Buyer's prior written consent. Such consent shall not unreasonably be withheld. Seller shall not delegate any of its duties or obligations under this contract. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this contract. This article does not limit Seller's ability to purchase standard commercial supplies or raw materials. Seller may assign its right to monies due or to become due.

18. PUBLICITY. Without Buyer's prior written approval, Seller shall not, and shall require that its subcontractors of any tier shall not, permit to be released any publicity, advertisement, news release, or denial or confirmation of same, in whatever form, regarding any aspect of this contract or the Goods or program to which they pertain.

19. BUYER'S PROPERTY. Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Buyer's property and all property to which Buyer acquires an interest by virtue of this contract. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall not use such property other than in performance of this contract without Buyer's prior written consent. Seller shall notify Buyer's Authorized Purchasing Representative if Buyer's property is lost, damaged or destroyed. As directed by Buyer, upon completion, termination or cancellation of this contract, Seller shall deliver such property, to the extent not incorporated in delivered end products, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this article limits Seller's use, in its direct contracts with the Government, of property in which the Government has an interest.

20. GOVERNMENT-OWNED PROPERTY. FAR 52.245-5, "Government Property (Cost Reimbursement, Time-and-Material, or Labor-Hour Contracts)," is incorporated by reference. "Contractor" means Seller, "Government" and "Contracting Officer" mean or include Buyer, and paragraph (g) is revised to read as follows:

"(g) Risk of Loss. Seller, upon the delivery to it or acquisition by it of any Government property, assumes the risk of and shall be responsible for all loss thereof or damage thereto. When such property is no longer needed for the performance of this contract, or at such other time as may be directed by the Buyer pursuant to paragraph (i) of this clause, Seller shall return such property to the Buyer or the Government, as applicable, in as good condition as when received, except for reasonable wear and tear, and except for such property as has been reasonably consumed in the performance of work hereunder."

21. PATENT, TRADEMARK AND COPYRIGHT INDEMNITY. 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 to Seller 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 manufacture, sale or use of products by either Buyer or its customer. Buyer and/or its customer will duly notify Seller of any such claim, suit or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of Indemnitee. Seller will have no obligation under this article with regard to any infringement arising from (a) Seller's compliance with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of products in combination with other items when such infringement would not have occurred from the use or sale of those products 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.

22. CONFIDENTIAL, PROPRIETARY, AND TRADE SECRET INFORMATION AND ITEMS. Buyer and Seller shall each keep confidential and protect from unauthorized use and disclosure all (a) confidential, proprietary, and/or trade secret information; (b) tangible items containing, conveying or embodying such information; and (c) tooling identified as being subject to this article and obtained, directly or indirectly, from the other in connection with this contract or other agreement referencing this contract (collectively referred to as a "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. However, despite any other obligations or restrictions imposed by this article, Buyer shall have the right to use, disclose and reproduce Seller's Proprietary Information and Materials, and make derivative works thereof, for the purposes of testing, certification, use, sale or support of any product delivered under this contract or any other agreement referencing this contract. Any such use, disclosure, reproduction or derivative work by Buyer shall, whenever appropriate, include a restrictive legend suitable to the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by Seller shall apply to all materials derived by Seller or others from Buyer's Proprietary Information and Materials. 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. Seller shall not, without the prior written authorization of Buyer, sell or otherwise dispose of (as scrap or otherwise) any parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Buyer. Prior to disposing of such parts or other materials as scrap, Seller shall render them unusable. Buyer shall have the right to audit Seller's compliance with this article. 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 relating to Proprietary Information and Material. Seller shall be liable to Buyer for any breach of such obligation by such subcontractor. The provisions of this article are effective in lieu of any restrictive legends or notices applied to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this contract.

23. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS.

(a) Technical Work Product. All technical work product, including, but not limited to, ideas, information, data, documents, drawings, software, software documentation, designs, specifications and processes produced by or for Seller, either alone or with others, in the course of or as a result of any work performed by or for Seller which is covered by this contract using funds paid by Buyer under this contract will be the exclusive property of Buyer and be delivered to Buyer promptly upon request.

(b) Inventions and Patents. All inventions conceived, developed, or first reduced to practice by or for Seller, either alone or with others, in the course of or as a result of any work performed by or for Seller which is covered by this contract using funds paid by Buyer under this contract, and any patents based on any such inventions (both domestic and foreign), will be the exclusive property of Buyer. Seller will (i) promptly disclose all such inventions to Buyer in written detail and (ii) execute all papers, cooperate with Buyer and perform all acts necessary or appropriate in connection with the filing, prosecution, maintenance or assignment of related patents or patent applications on behalf of Buyer.

(c) **Works of Authorship and Copyrights.** All works of authorship (including, but not limited to, documents, drawings, software, software documentation, photographs, video tapes, sound recordings and images) created by or for Seller, either alone or with others, in the course of or as a result of any work performed by or for Seller which is covered by this contract using funds paid by Buyer under this contract, together with all copyrights subsisting therein, will be the sole property of Buyer. To the extent permitted under United States copyright law, all such works will be works made for hire, with the copyrights therein vesting in Buyer. The copyrights in all other such works, including all of the exclusive rights therein, will be promptly transferred and formally assigned free of charge to Buyer.

(d) **Pre-Existing Inventions and Works of Authorship.** Seller grants to Buyer, and to Buyer's subcontractors, suppliers, and customers in connection with Products or work being performed for Buyer, an irrevocable, nonexclusive, paid-up, worldwide license under any patents, copyrights, industrial designs, and mask works (whether domestic or foreign) owned or controlled by Seller at any time and existing prior to or during the term of this contract, but only to the extent that such patents or copyrights would otherwise interfere with Buyer's or Buyer's subcontractors', suppliers' or customers' use or enjoyment of Products or the work product, inventions or works of authorship belonging to Buyer under this contract.

(e) **Inapplicability of Article 23.** In the event of any inconsistency between this article and any government contract clause incorporated by reference into this contract, the incorporated clause shall govern.

24. **RIGHTS IN SOFTWARE AND DOCUMENTATION.** Seller hereby grants to Buyer a perpetual, nonexclusive, paid-up, worldwide license to reproduce, distribute copies of, perform publicly, display publicly and make derivative works from software included in or provided with or for products (Software) and related information and materials (Software Documentation) as reasonably required by Buyer in connection with (i) the testing, certification, use, sale or support of a product or the manufacture, testing, certification, use, sale or support of any item including and/or utilizing a product or (ii) the design or acquisition of hardware or software intended to interface with Software. The license granted to Buyer under this article also includes the right to grant sublicenses to its customers as reasonably required in connection with customers' operation, maintenance, overhaul and modification of any item including and/or utilizing Software. All copies and derivative works made pursuant to the foregoing license or any sublicense to a customer will automatically become the property of Buyer or customer, and Buyer agrees to preserve Seller's copyright notice thereon to the extent that such a notice was included with the original Software and/or Software Documentation. Seller acknowledges that Buyer is the owner of all copies of Software and Software Documentation provided to or made by Buyer or customers pursuant to this contract, and Seller hereby authorizes Buyer and customers to dispose of, and to authorize the disposal of, the possession of any and all such copies by rental, lease or lending or by any other act or practice in the nature of rental, lease or lending.

25. **GRATUITIES.** Seller warrants that neither it nor any of its employees, agents or representatives has offered or given any gratuities to Buyer's employees, agents or representatives for the purpose of securing this contract or securing favorable treatment under this contract.

26. OFFSET CREDITS.

(a) To the exclusion of all others, Buyer or its assignee shall be entitled to all industrial benefits or offset credits which might result from this contract. Seller shall provide documentation or information which Buyer or its assignee may reasonably request in order to substantiate claims for industrial benefits or offset credits.

(b) Seller agrees to use reasonable efforts to identify the foreign content of goods which Seller either produces itself or procures from other companies for work directly related to this contract. Promptly after election of a foreign subcontractor for work under this contract, Seller shall notify Buyer of the name, address, subcontract point of contact (including telephone number), and dollar value of the subcontract.

27. UTILIZATION OF SMALL BUSINESS, SMALL DISADVANTAGED BUSINESS AND WOMEN-OWNED SMALL BUSINESS CONCERNS. To support Buyer's policy, Seller agrees to subcontract with small business, small disadvantaged business and women-owned small business concerns to the maximum extent practical.

28. RIGHTS AND REMEDIES. Any failures, delays or forbearances of either party in insisting upon or enforcing any provisions of this contract, or in exercising any rights or remedies under this contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect. The rights and remedies set forth in this contract are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity. If any provision of this contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

29. COMPLIANCE WITH LAWS. Seller shall comply with all applicable statutes and government rules, regulations and orders, including those pertaining to United States Export Controls.

30. GOVERNING LAW. This contract shall be governed by the laws of the State of Washington. No consideration shall be given to Washington's conflict of laws rules. This contract excludes the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods.

31. GOVERNMENT CLAUSES. Government clauses applicable to this contract are incorporated herein either by attachment to this document or by some other means of reference.

32. ENTIRE AGREEMENT. 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. No amendment or modification of this contract shall bind either party unless it is in writing and is signed by Buyer's Authorized Purchasing Representative and an authorized representative of Seller.