

**CUSTOMER CONTRACT REQUIREMENTS
Turkey 737 AEW&C
CUSTOMER CONTRACT SSM-SZ-4200-01**

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

A. NEW MATERIAL

1. Definitions.

Material, as used in this clause, includes, but is not limited to, raw material, parts, items, components, and end products.

New, as used in this clause, means previously unused or composed of previously unused materials.

Other than new, as used in this clause, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned.

2. Unless this contract specifies otherwise, the seller represents that the supplies are new and are not of such age or so deteriorated as to impair their usefulness or safety.

3. If the seller believes that furnishing other than new material will be in the buyer's interest, the seller shall so notify the buyer in writing and request authority to use such material. The seller's notice shall include the reasons for the request along with a proposal for any consideration due the buyer if the buyer authorizes the use of other than new material.

B. FORCE MAJEURE EVENTS AND PROOF OF SUCH EVENTS

1. Force Majeure shall be limited to the circumstances set forth below and in order for a Force Majeure event to be valid the following conditions have to exist:

- (a) Such circumstances are not within the control of the Seller;
- (b) Such circumstances, despite the exercise of reasonable diligence of a prudent merchant cannot be prevented, avoided or removed by Seller;
- (c) Such event adversely affects the ability of the Seller to perform its obligations under the purchase contract;
- (d) The Seller has taken all precautions and measures in a level of a prudent merchant to avoid the effect of such event on its ability to perform its obligations under the purchase contract and to mitigate the consequences of such circumstance;
- (e) Such event is not the direct or indirect result of the failure of the Seller to perform any of its obligations under the purchase contract; and
- (f) Seller has given Boeing a written notice as set forth herein.

2. Events of Force Majeure:

- (a) General or partial events of readiness and war;
- (b) Earthquake, flood or other natural physical disaster;
- (c) Riots, revolutions or sabotage or civil commotion;
- (d) US and Turkish labor strikes affecting the performance of the contractual obligations;
- (e) Acts or omissions of any government in its sovereign capacity, [such acts or omissions shall mean the exercise of (government and parliament) of the executive and legislative power; however, if such acts or omissions occur as a result of the instigation of the Seller and/or its subcontractors they shall not be considered as Force Majeure];

- (f) Fires, explosions, Acts of government that change system performance and quantity are not Force Majeure and Force Majeure, only excuses schedule delay.
3. Notwithstanding Force Majeure, the provisions of this clause shall not excuse:
- (a) Late Delivery caused by Force Majeure and unreasonably increased by the Seller as the case may be; or
 - (b) Late performance by the Seller or its subcontractors unreasonably caused by the failure of any of them to engage qualified subcontractors and suppliers or to hire an adequate number of personnel or labor.
4. If the Seller is prevented or delayed in the performance of any of its obligations under the purchase contract by an occurrence of Force Majeure then it shall give written Notice to Boeing as promptly as possible and, in any event, within ten (10) days of the occurrence including the following:
- (a) The occurrence constituting Force Majeure and its commencement date;
 - (b) The obligation or obligations the performance of which is thereby prevented or delayed;
 - (c) The estimated further period in which such prevention or delay will continue; and
 - (d) Document indicating the nature of such delay and approved by authorized representatives of Seller confirming accuracy of the particular contained in such notification.
5. Boeing and SSM are entitled to search for the nature of the Force Majeure in the place of the event and to decide whether the validity conditions of such Force Majeure set forth in this clause have occurred or not and the Seller shall provide its utmost assistance to Boeing and SSM for such search. Each party shall bear its own costs arising therefrom. If Boeing and/or SSM decides, as a result of its search, that such Force Majeure has not occurred, Boeing shall inform the Seller on such decision with a notice and reason for rejection. The rights and remedies of the parties resulting from Force Majeure events shall be as set forth in this provision.

C. CONSEQUENCES OF FORCE MAJEURE

In the event that occurrence and existence of a Force Majeure is accepted by Boeing with the assistance of SSM, Boeing shall grant to the Seller a reasonable time extension. The Seller shall not claim an extension right which exceeds the duration of the Force Majeure. However, such extension shall not give any right to the Seller to claim any price difference.

By reason of Force Majeure the Seller shall not have a right to claim any kind of indemnity and price difference.

In the event that the Seller is excused from performance of its obligations under the purchase contract for a continued period of six (6) months due to Force Majeure as defined in the Force Majeure clause in this purchase contract, the Parties shall meet, within such six (6) month period, to find a solution for the resumption of the performance of the work. If the Parties cannot meet within the above mentioned six (6) months or cannot reach an agreement at the end of such six (6) months, Boeing may terminate this purchase contract. Such termination shall not be considered a termination for 'default' or 'convenience' under this purchase contract. Instead, in case of such termination under this clause, the parties shall use their best efforts to mutually agree on the most equitable solution regarding the results of such termination.

The Seller shall take all necessary cautions to remove or minimize the impacts of Force Majeure and shall notify such cautions to Boeing in writing.

D. GOVERNMENT FURNISHED SUPPLIES AND SERVICES AND BOEING FURNISHED SUPPLIES AND SERVICES (This provision applies to this contract if Government Furnished Equipment or Buyer Furnished Equipment will be supplied to your supplier.

1. If GFE is not delivered to the Seller by the delivery dates specified in the GFE schedule, the Seller may submit a Change Proposal in accordance with the Changes clause.

The ownership of all GFE shall remain with Boeing and/or SSM.

The Seller accepts that GFE shall only be used in order to fulfill this purchase contract.

The Seller shall take all reasonable care for all GFE, which are under the ownership of Boeing or SSM and which are delivered to the Seller under the scope of this purchase contract.

The Seller shall prepare and apply a program in accordance with the applicable standards of the Seller for the usage, maintenance, repair, protection and preservation of GFE, at the Seller's facilities.

The Seller shall be responsible for the maintenance of GFE during the term in which GFE is at the facilities of the Seller.

Until such GFE is delivered back to Boeing or SSM, the Seller shall be responsible for the loss or harm or damage that may occur in GFE following the delivery made to the Seller. If repair or replacement is required for the loss, harm, damage or for any other reason that the Seller is responsible, the Seller shall repair or replace the lost, harmed or damaged GFE item at its own cost.

2. If any loss, harm or damage occurs in GFE provided by Boeing or SSM within the scope of this purchase contract, the Seller shall notify the Boeing Buyer within twelve (12) hours after being informed of such situation. The Seller shall take all the necessary precautions in order to protect GFE from any further damages, shall separate the damaged and undamaged GFE from each other and shall put in order all the affected GFE and shall send a Notice to Boeing including the following issues: Identification of the lost, harmed or damaged GFE item, part number, serial number and estimated value; the time and the description of the loss, harm or damage; Insurance covering a part of the goods or benefits on such goods, if any. The Seller shall notify Boeing of any effect of the lost, harmed or damaged GFE on the Seller's ability to perform its obligations under this purchase contract.

3. The Seller shall not make any act, which will negatively affect the right of Boeing or SSM to request compensation for the loss, harm or damage occurred in GFE from third parties. Upon the request of Boeing, the Seller shall provide all the necessary assistance (including the filing of a lawsuit and execution of assignment document in favor of Boeing (and/or SSM) and shall cooperate with Boeing and SSM for the reimbursement of the damages. In addition to this, in cases where the responsibility of a subcontractor is not discharged for any loss, harm or damage occurred in GFE, the Seller, in favor of itself, Boeing, and SSM, shall initiate executional proceedings against the responsibility of Seller/subcontractor regarding such loss, harm or damage. The Seller may raise a contract change, in accordance with the Changes clause for: any delay in the delivery of GFE, delivery of GFE in a situation which is not in compliance with the intended usage, or GFE for which Boeing and/or SSM has not accomplished adequate repair or change for which Boeing or SSM has responsibility.

E. DATA RIGHTS (This provision applies to this contract if Seller will be delivering experimental, developmental or research work)

The Seller agrees that SSM, Boeing, and their subcontractors may throughout the service life of the HIK System need access to certain Technical Information belonging to the Seller, pertaining to the Seller's product design, to operate, maintain, repair and modify or further develop the HIK System. SSM and Boeing may use Technical Information belonging to the Seller for purposes in support of the HIK System, but may not use such Technical Information for other purposes not related to or in support of the HIK System.

If the Seller delivers Technical Information under this purchase contract comprising information that is identified as being owned by the Seller by a suitable restrictive legend, but that did not result from development work funded by this purchase contract, SSM, Boeing and their subcontractors agree to hold such delivered Technical Information in confidence as Proprietary information belonging to the Seller, and agrees to refrain from using and disclosing such Technical Information for purposes or in manners not authorized by this purchase contract. Any disclosure of such Technical Information authorized by this purchase contract shall be under conditions of confidentiality.

In the event SSM, Boeing, or their subcontractors need to disclose such Seller-owned Technical Information pertaining to the Seller's product design to a recipient contractor for purposes of the HIK System at any time during the service life of the HIK System, SSM, Boeing, or their subcontractors

may so disclose provided SSM, Boeing, or their subcontractors shall, prior to disclosing such Technical Information, first reach agreement with such recipient contractor to only use such Technical Information for purposes of performing the recipient contractor's subcontract with SSM, Boeing, or their subcontractors in support of the HIK System, to hold such Technical Information in confidence, and to protect such Technical Information from all uses and disclosures not authorized by that purchase contract. Notwithstanding anything in this purchase contract to the contrary, Technical Information pertaining to a Seller's commercial product shall be made available to SSM, Boeing, or their subcontractors on terms and conditions equivalent to those customarily used by Seller's commercial product sales group with its other commercial customers.

SSM's, Boeing's, or their subcontractors' obligations under this clause shall survive expiration or termination of the purchase contract.

Data produced with the non-recurring costs set forth in 'Refund of the Non-Recurring Costs to SSM' under this purchase contract, are the property of SSM. Outside the scope of the HIK Program, such data may not be used or copied, in whole or in part, without the permission of SSM. Such Data shall be marked by the Seller as 'SSM Proprietary. Data may not be used without SSM's permission.' The Seller agrees to hold the Technical information, which is identified as being owned by SSM, Boeing, or their subcontractors by a suitable restrictive legend and which resulted from development work funded by this purchase contract, the Seller agrees to hold such delivered Technical Information in confidence as Proprietary Information, and agrees to refrain from using and disclosing such Technical Information for purposes or in manners not authorized by this purchase contract. Any disclosure of such Technical Information authorized by this purchase contract shall be under conditions of confidentiality.

F. DOMESTIC ADDED VALUE (DAV) (This provision, and the restrictions of at least 51% Turkish capital, location in Turkey and subject to Turkish tax laws, applies to all Turkish companies with the exception of TAI, HAVELSAN, ASELSAN, MKAS, NETAS and THY.

'Domestic Added Value or Local Content' shall mean the total value of the goods produced and the services performed by the Seller, minus the costs of all materials and services imported by the Seller, to be calculated as defined below.

'Gross Local Content' shall mean the total value of this purchase contract entered into with the Seller.

'First Program Period' shall mean the period of time starting with the acceptance by Seller of this purchase contract, and ending with the delivery of the first HIK aircraft by Boeing to SSM and/or the Turkish Air Force.

'Program Year' shall mean the twelve (12) month period commencing on the 'start date' of Boeing's prime contract with SSM. Each succeeding twelve (12) month period shall also be considered to be a Program Year. (Boeing agrees to inform Seller of the 'start date' of Boeing's prime contract with SSM, after the start date has occurred.) For the purposes of this purchase contract, DAV or Local Content is calculated by deducting the items identified below from the value of the work allocated to the Seller and given by this purchase contract.

Value of the subcontracts given to non-Turkish entities by the Seller;

Costs of the material, equipment, training and services which will be imported to be used or operated in connection with this purchase contract by the Seller;

Seller shall commit a total DAV value percentage of the gross local content value of this purchase contract, which is set forth at the end of this clause.

Seller shall achieve fifty percent (50%) of the total DAV requirement within the first program period. The Seller shall give the items and values in detail which are used in such calculations and constitute the purchase contract price in the annual DAV report. The annual report is required thirty (30) days after the end of each program year. The annual report shall comply with the requirements identified in the DAV progress report instruction, Supplier Data Sheet (SDS) Number SD-PM-018.

Boeing and SSM shall have a right to examine any document related to this purchase contract in the facilities of the Seller and observe, at any time, the transactions performed. The Seller shall be responsible for taking the necessary cautions for the inspection, by Boeing and SSM, of the transactions performed by the subcontractors. With regard to the annual DAV report, Boeing and SSM shall also have the right to examine any document related to this purchase contract in the facilities of the Turkish subcontractors, obtain information and request documents.

If the Seller does not realize the DAV it has committed for the First Program Period or for the total purchase contract, a penalty as follows shall be paid by the Seller.

Unrealized DAV = Current DAV – Actually Realized DAV

Penalty Payment = Unrealized DAV x 10 %

Current DAV is calculated by multiplying the purchase contract price determined using the escalation formula in the purchase contract for such Program Period with the DAV Ratio committed in this clause.

The Seller shall pay the penalties, calculated by escalating until the date Boeing notifies the Seller. In the case that such penalties are not paid within twenty (20) days following Boeing's Notice to the Seller, Boeing shall have a right to collect such amount from the following payments.

The Seller shall inform Boeing and SSM before entering into any MOA and/or subcontract agreements to be executed by the Seller for the performance of its obligations under this purchase contract. Boeing and SSM reserve the right to participate in the preparation of the MOA and/or subcontracts with the Seller prior to their execution if requested by Boeing. MOA notification and request for approval shall be made in writing to Boeing at least twenty (20) days before any such MOA and/or subcontract agreement is executed. Such notification shall include the following:

- Definition of the materials or services to be provided by subcontractor;

- General information on suggested subcontractor;

- Recommended execution date for such MOA and/or subcontract;

- Volume of the work as in value and amount;

- A list of the projects carried out.

Boeing and SSM approval will be assumed if Boeing and SSM comments are not received within fifteen (15) working days. Boeing and SSM shall not withhold approval from Seller to execute MOA and/or subcontracts and/or agreements with Turkish Industry without showing a specific reason.

The Seller, in order to perform its Local Content obligation under this purchase contract and in order for the related industrialists to manufacture the items to be used in the aircraft locally, shall collaborate with the related industrialists to allocate a part of Turkish Industry work share to them and to execute subcontracts; such process shall, hereinafter, be referred to as related industrialist localization.

The Seller shall make industrial researches in order to increase the types and amounts of the good items, which will be given to the subcontractor to be manufactured in Turkey. The Seller shall submit the conclusions of its research as a part of its annual DAV Report.

In case of existence of the alternative resources for any supply, material, component, equipment, GSS, and other materials related to the HIK System which are appropriate for the manufacturing activities to be performed in Turkey, the Seller agrees that it shall give priority to the use of the above-mentioned items manufactured by Turkish Industries, if all purchasing criteria are otherwise equal.

The Seller shall commit that the work granted to the Turkish Industry under this purchase contract shall not directly or indirectly be granted, as a whole, by this Turkish Industry to a foreign company through a subcontract. If a part of such work is directly or indirectly granted to any foreign company, such part shall not be considered as Local Content.

The DAV percentage rate agreed to is: _____%"

G. ESCALATION PROCEDURES (This provision applies to this contract if the Seller is a Turkish Industry supplier)

Economic price adjustment formula all payments subject to variations in labor and materials.

Introduction

All payment values listed on the payment schedule are stated in base date 1 January 2001 US dollars (USD) and, with the exceptions indicated in the section entitled, 'Adjustments to EPA Payable,' are subject to contract adjustment.

The Escalation Procedures shall be applied to each payment listed on the payment schedule to determine the associated Economic Price Adjustment (EPA) payment for each. At completion of each milestone listed on the payment schedule, the base date payment listed for the milestone plus EPA payable for that milestone shall be due. At each milestone completion, the base date payment value and the associated EPA payment value may be summed and submitted together on one invoice or each may be submitted separately as two different invoices.

The specific definitions and calculation are provided in detail in the following sections. All payments shall be provided in US dollars (USD).

Calculation of EPA Payments

As aforementioned, the base date for all payment schedule values is 1 January 2001. All payment schedule values, except as indicated in the section entitled, 'Adjustments to EPA Payable,' are subject to contract adjustment in accordance with the following Economic Price Adjustment formula. All payments shall be provided in US dollars (USD).

Where,

PV_n = The Economic Price Adjustment payable for the nth payment. All payments listed on the payment schedule, except as indicated in the section entitled, 'Adjustments to EPA Payable,' shall be considered payments for application of the EPA formula.

p_n = The base date payment value of the nth payment.

YA = The labor component, i.e., that portion of the payment (expressed as a decimal) considered to be the labor component, as shown in Table 5.2.2.2-2.

LA = The labor component index value for the month the payment is due. The due date excludes the settlement period. As the labor index values are only released on a quarterly basis, the value released for the month of March will be used for the months of January and February; the value for June will be used for April and May; the value for September will be used for July and August; and the value for December will be used for October and November. The index values are to be obtained from the source for the index specified in Table 5.2.2.2-1.

LA_o = The labor component index value at base date 1 January 2001. Table 5.2.2.2-1 provides the base date index value for the labor component.

ZA = The materials component, i.e. that proportion of the payment (expressed as a decimal) considered to be the materials component, as shown in Table 5.2.2.2-2.

MA = The materials component index value for the month the payment is due. The due date excludes the settlement period. The index values are to be obtained from the source for the index specified in Table 5.2.2.2-1.

MA_o = The materials component index value at base date 1 January 2001. Table 5.2.2.2-1 provides the index value for base date for the materials component.

N = The total number of calendar months from base date 1 January 2001 to the month the milestone payment is due. In determination of the total number of months, January 2001 shall be counted as month number one.

Table 5.2.2.2-1 – Indices for the calculation of Economic Price Adjustment payments

<u>Indices Component/ Official Source</u>	<u>Description of Indices Group/ Industry</u>	<u>Formula Element</u>	<u>Index value for Base Date</u>
Labor - US Department	Manufacturing (SIC 3721) Total	LA _o	155.3

of Labor, Bureau of Labor Statistics (BLS) Employment Cost Index (ECI) Group: Aircraft	Compensation Not Seasonally Adjusted Series ID: ecu18102i		
Materials - US Dept of Labor, Bureau of Labor Statistics (BLS)	Producer Price Index (PPI) Industry: Aircraft (SIC 3721) Not Seasonally Adjusted Series ID: pcu3721#	MAo	153.1

Table 5.2.2.2-2 – Labor and Material components by year

<u>Year</u>	<u>Labor Component (YA)</u>	<u>Material Component (ZA)</u>
Up to CY2003	0.80	0.20
CY2004	0.80	0.20
CY2005	0.80	0.20
CY2006	0.80	0.20
CY2007	0.80	0.20
CY2008	0.80	0.20
CY2009	0.80	0.20
CY2010 and on	0.80	0.20

Adjustments to EPA Payable

There shall be no EPA payable for the first 16.43% of contract base date payments. The EPA payable for the next 16.43% (16.44% to 32.86%) of contract base date payments shall be reduced by 25% of the calculated EPA payable total value for those payments. Table 5.2.2.2-3 illustrates the adjustments to EPA payable for all contract base date payments.

Table 5.2.2.2-3 – Base Date payments subject to EPA payable

<u>Cumulative % of Total Base Date Contract Value</u>	<u>EPA Payable</u>
0 to 16.43%	None
16.44% to 32.86%	75% of EPA Payable Calculation
32.87% to 100%	100% of EPA Payable Calculation

Preliminary, Final, and Amended Indices

EPA payments shall be calculated based on the published index values available at the time payment is due. If the due date is contained within a month for which a requisite index value has not been published by the official source, then the published index value for the prior month or quarter may be used to determine the EPA payable.

If 'preliminary' published index values are used in calculation of the EPA payable, the EPA payable shall subsequently be adjusted taking into account the effect of the EPA formula by 'final' published index values after publication of the 'final' indices. Where a published index value is subsequently amended by the official source, the EPA payable shall subsequently be adjusted taking into account the effect of the EPA formula by amended published index values after publication of the amended indices.

No more than four times during each calendar year, the Seller may submit an aggregate invoice for payment for adjustments to EPA invoices submitted previously in said calendar year. No more than six months after the end of each calendar year, the Seller shall submit an aggregate invoice for payment for adjustments to all EPA invoices submitted in that calendar year.

Where an EPA payable is for a credit to Buyer, Buyer shall adjust the next payment to the Seller or, if no further payment is to be made, the Seller shall pay to Buyer the amount of the credit within thirty (30) days of Buyer providing written advice of same to the Seller.

Equation Rounding

The final value of PV_n will be rounded to the nearest dollar. The maximum number of digits to the right of the decimal after rounding utilized in any part of the EPA formula equation will be five (5) where rounding of the fifth digit will be increased to the next highest digit when the sixth digit is equal to five (5) or greater.

Changes to Published Indices

In the event that any changes occur, during the period of the purchase contract and before adjustment of the final purchase contract price, in the 'basis' of any of the indices referred to herein the Escalation Procedures (e.g., a change in a datum or a revised statistical base by the official source), the Buyer and the Seller shall agree on a fair and reasonable adjustment to the relevant index.

In the event that the official source changes the base date in their determination of published index values, such re-based values will be incorporated into the Escalation Procedures and EPA formula calculations for all subsequent payments.

In the event that the official source ceases to publish an index referred to herein the Escalation Procedures, the Buyer and the Seller shall agree on an alternative index which will have substantially the same effect as those specified herein, or the Buyer and Seller shall agree upon a revised formula which will have substantially the same effect as those specified herein.

H. EXAMINATION OF RECORDS BY SSM (This provision applies to foreign (non-Turkish) subcontractors who execute subcontracts in Turkey)

The Seller shall include an clause in its first degree subcontracts in Turkey, related to this purchase contract, to the effect that SSM or its duly authorized representatives, during five (5) years after the final payment under this purchase contract, shall have the right to have access to and examine the directly relevant records of the subcontractors showing that the obligations arising from such subcontracts have been performed.

The Seller shall reflect the terms set forth in the paragraph above to the foreign (non-Turkish) subcontractors with whom it executes subcontracts in Turkey.

I. INDUSTRIAL SECURITY (This provision applies if classified material is required for the performance of this contract)

The Seller and its subcontractors shall comply with the higher of the security requirements of either the Turkish Security Classification Guide which reflects relevant Turkish laws and regulations or the U.S. Security Classification Guide which reflects U.S. Government industrial security regulations and other relevant government industrial security regulations.

Classified information, documents and Supplies shall not be disclosed and given to any third person, firm or their representative of a foreign country or a citizen of a foreign country without advance written permission of Boeing and SSM.

Classified information, documents and Supplies shall be protected and processed according to the higher classification of either the Turkish Security Classification Guide or the U.S. Security Classification Guide. The Seller and its Subcontractors agree to protect the NATO information and documents within the scope of the HIK Project in accordance with CM 55-15.

All matters of a classified nature transmitted overseas between any two of Boeing, SSM, the Seller, and a Subcontractor, whether generated in Turkey or overseas, shall be subject to the laws of the overseas country regarding the custody and protection of classified material, and to any bilateral security instrument between Turkey and the overseas country.

The Seller and/or its Subcontractors shall be responsible for the expenditures arising from the application of the industrial security cautions.

The classification of work to be performed under the purchase contract will be up to and including SECRET level. Seller shall for the Period of the purchase contract possess a facility clearance at the

SECRET level issued by the U.S. Defense Security Service. Seller shall comply with the relevant U.S. Government industrial security regulations and other relevant government industrial security regulations, including the U.S. Security Classification Guide provided by the U.S. Government for the requirements of the purchase contract.

Classified information shall only be disclosed and given to the persons who have the necessary Individual Security Certificates enabling such person to have access to such information and who are in the status that have a need to know such information, and only for use of the information in conjunction with this purchase contract.

In order for classified information, documents and/or Supplies to be given to a subcontractor, such subcontractor needs to accept and provide the security and related terms specified herein. The Security Agreements between the Seller and Subcontractors regarding this issue shall be completed within two (2) months following the execution date of the purchase contract.

Defense Industry Security applications of the Seller and its subcontractors shall be reviewed by Boeing and SSM at periodical intervals.

Seller and its subcontractors shall continue to protect all classified information, documents and Supplies provided or produced under this purchase contract even after the completion or termination of the purchase contract in any way or its termination in accordance with the law. Accordingly, the parties shall not make either written or verbal disclosure with regard to the classified information, documents and supplies provided or produced under this purchase contract, their applications or details to third parties for ten (10) years, without informing and obtaining the advance written approval of the parties.

J. DUTIES AND TAXES

1. Notwithstanding any other clause hereof to the contrary, the following customs, taxes and duties and Value Added Taxes (VAT) on the goods and services under this purchase contract shall not be included in the price of this purchase contract:

- (a) Taxes, stamp tax of the purchase contract amount and recovery tax for items purchased from non-EEC countries, imposts, levies and duties imposed by the Customs Authorities of the Republic of Turkey on foreign goods imported into Turkey; and
- (b) Value Added Taxes (VAT) levied by the Turkish Taxation Authorities on services provided to Buyer's customer, SSM.

Each time and to the extent that such taxes, imposts, levies are paid by the Seller to the related Turkish Customs or Taxation Authorities, Buyer shall reimburse the Seller the amounts of such payments against the Seller's substantiated documents therefore to the extent that such payment is reimbursed by SSM. In the event that the Seller shall be liable for any such taxes, levies, imposts, and duties the Seller shall promptly notify Buyer of the same and shall take all measures reasonably requested by Buyer to mitigate such liability. In all cases, both parties shall use their best efforts to obtain relief from any taxes, imposts, levies, duties, and similar charges described herein. If the Seller pays any taxes, levies, imposts, or duties for which SSM has an exemption, or for which SSM will not or does not reimburse Buyer, then Buyer shall not reimburse the Seller for such payments.

2. Corporate taxes and income tax on the salaries of the employees of the Seller which shall be required to be paid by the Seller under Turkish Tax Law and Regulations shall be borne by the Seller.

3. Any present or future customs, duties, taxes, imposts, and/or like charges imposed by any Taxation Authorities outside of Turkey related to the goods and services hereunder shall be borne by Seller.

K. CODING (This provision applies to this contract if Seller will require National Stock Number(s) (NSN) The Seller shall provide the necessary data to Boeing and SSM to provide Turkish codification of any HIK System hardware which could be appropriate for the assignment of a National Stock Number (NSN) within the scope of this purchase contract. When available, but not later than the acceptance of each Deliverable Supply, the Seller shall submit the National Stock Number(s) (NSN) or the data to produce the NSN, of the Supplies to Boeing and SSM. The responsibility of the Seller regarding the

coding is also applicable for the goods it provides from its Subcontractors. The Seller shall be obliged to give the coding information necessary for the materials procured from the Seller, its subcontractors and vendors.

L. PRESERVATION, PACKAGING, PACKING, MARKING, CRATING, AND SHIPPING (This provision applies to this contract if this contract is issued to a Turkish Industry supplier)

Supplies to be delivered under this purchase contract shall be preserved, marked, packed, crated and shipped to the places informed to the Seller before the effectivity date of this purchase contract, by the Seller as specified in this purchase contract in accordance with the requirements set forth herein. The Seller shall be responsible for any loss of and/or damage to the supplies to be delivered under this purchase contract occurring before their delivery to SSM.

The packages of all Deliverable Supplies shall be marked as follows:

‘PROPERTY OF TURKISH REPUBLIC MINISTRY OF DEFENCE
Undersecretariat for Defence Industries
HIK Project’

In addition to the requirements stated herein, the Seller shall also be responsible for taking any kinds of precautions for the supplies requiring special care and/or preservation during the shipping for the purposes of the performance of the purchase contract. Therefore, the shipping accessories related to preservation and safety of the physical structure and performance of the Supplies shall be provided by the Seller to SSM free of charge.

If available, when transporting and insuring all supplies to be shipped from abroad under this purchase contract, priority shall be given to Turkish companies.

M. EXPORT LICENSE NUMBER NOTIFICATION AND SHIPPING INSTRUCTIONS (This provision applies if this contract will be importing unclassified hardware from a Foreign supplier, which are components that will be delivered (exported) to a foreign Ultimate End-User)

Include “The ultimate consignee is the Republic of Turkey, 737 AEW&C System, Peace Eagle Program Sale authorized by DTC TA 1079-02” in the blank.

N. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

The Seller commits that the Deliverable Supplies and Services do not infringe the Intellectual and Industrial Property Rights. The Seller further commits that no exclusive license to produce or sell the same (except for the products of the Seller’s commercial product sales group) items have been granted to third parties.

In the event that an infringement of Intellectual and Industrial Property rights, arising from the use or sale of the Deliverable Supplies and Services, is asserted, the Seller shall indemnify SSM and Boeing for all expenditures and damages and loss (excluding incidental and consequential damages) that SSM or Boeing may incur or may have to pay due to such infringement lawsuit, within forty five (45) days after any final court decision or Seller approved settlement. In the event of late payment of such amount by the Seller, interest on the amount to be paid at the rate of LIBOR plus 2% (two percent) for each delayed day shall be paid. ‘LIBOR’ refers to the British Bankers’ Association London Interbank Offered Rate.

Should the Supplies or any components thereof or their use be subjected to a lawsuit or other procedural process, and the court prohibits use of the same, the Seller shall in a maximum of six (6) months and at its expense:

- (a) provide to SSM, Boeing, or other governmental bodies the right to continue using the Deliverable Supplies and Services that have been delivered under the purchase contract or ensure provision of the same by third parties; or

(b) replace the Deliverable Supplies and Services that have been delivered under the purchase contract with non-infringing substitute Deliverable Supplies and Services or items having equal benefit, efficiency and performance; or

(c) modify the Deliverable Supplies and Services that have been delivered under the purchase contract so that they become non-infringing provided, however, that in the case of (a), (b) and (c), no deterioration in the requirements defined in the purchase contract of the relevant Deliverable Supplies and Services shall be allowed.

SSM and Boeing shall supply free of charge to Seller (i) notification in writing of such claim, lawsuit or action arguing infringement; (ii) for the defense of such claim, including the settlement and appeal, all legal opportunities and authority to Seller; and (iii) all available information to defend SSM or Boeing.

This clause shall survive any termination of the purchase contract, and remain valid with all its provisions.”

O. LIQUIDATED DAMAGES FOR DELAY (This provision applies if this contract is issued to a Turkish Industry supplier)

Seller shall pay to Boeing, as liquidated damages for delay, at the rate of one percent (1%) for the first month to be calculated on the price of the delayed Deliverable Supplies and Services as set forth and at the rate of one and a half percent (1.5%) per month for each one succeeding month of delay to be calculated on the same basis. The Liquidated Damages For Delay shall be calculated on a pro rata daily basis. The total of the Liquidated Damages for Delay shall not exceed 10% of the purchase contract price. For delays exceeding four (4) months, Boeing shall have the right to terminate this purchase contract for damages. Upon termination of this purchase contract, no Liquidated Damages for Delay shall accrue for terminated Supplies and Services after the date of termination.

The obligation of the Seller to make such payment, arising from the liability of Seller for delay, shall be in full and complete fulfillment of the Seller’s liability for delay, but shall not relieve the Seller from its obligations to complete the delivery of the delayed Deliverable Supplies and Services, and any other of its obligations under this purchase contract. Should any Liquidated Damages for Delay, payable under the provisions of this clause, not be paid in a maximum of thirty (30) days following the receipt by the Seller of the Notice from Boeing issued for such Liquidated Damages for Delay indicating the amount of claim, Boeing may also utilize such amount for procurement of additional Supplies and Services from the Seller. Upon the performance of any of the above, the Seller shall be deemed to have paid the Liquidated Damages For Delay.

P. PERSONNEL RESTRICTIONS

The Seller commits that the members of Project Group and Contract Negotiation Committee, who were officially appointed to work for the preparation of Response For Proposal, Preparation of Proposal, Evaluation of Proposal and the negotiation stages of HIK Project shall not be employed by the Seller, or subcontractors’ companies for a period of three (3) years.

The Seller further commits that the Seller itself, its representatives and subcontractors shall comply with the terms of the ‘Law on the Works that cannot be Performed by the Persons who Resigned from the Public Duties,’ numbered 2531.

Q. GIFTS AND COMMISSION PAYMENTS

The Seller shall not give or agree on giving any gift or commission and/or any kind of enticement related to the award and execution of this purchase contract to a Turkish Government employee. In the event of breach of this clause, Boeing shall have the right to terminate this purchase contract using the “Cancellation for Default” clause applicable to this purchase contract.”

R. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Seller shall provide immediate notice to Buyer in the event of being debarred suspended, or proposed for debarment by any Federal Agency during the performance of this Contract.