

INTELLECTUAL PROPERTY (SERVICES)

a. Definitions:

“Intellectual Property” or (“IP”) means inventions, discoveries and improvements; know-how, works of authorship, technical data, drawings, specifications, process information, reports and documented information; and computer software.

“IP Rights” means all worldwide common law and statutory rights to the IP, including but not limited to rights under patents, industrial designs, trade secrets, copyrights and mask work registrations.

“Background IP” means all IP and IP Rights owned or controlled by Seller prior to the effective date or outside the scope of this Contract.

“Foreground IP” means IP and IP Rights conceived, developed or created by, for or with Seller either alone or with third parties, in the performance of this Contract, including modifications to any Buyer Specification suggested by Seller.

“Buyer Specifications” means performance specifications, specification control documentation, interface control documents, schematics, definitions, configurations, and certification data, and all IP Rights therein, used or intended to be used by Boeing: (i) to establish and define (1) requirements for the Services and associated processes, service level, system specification, certification, and configuration; and (2) architecture descriptions for the Services and associated processes, service, and system; and (ii) to procure and certify Services or similar products and to assure integration of the Services or similar product with a Boeing product or other systems and equipment included in a Boeing product.

b. Seller-Owned IP. Seller shall retain ownership of its Background IP and any Foreground IP not assigned to Buyer pursuant to paragraph d. below (collectively, the “Seller-Owned IP”). Seller grants to Buyer an irrevocable, nonexclusive, sublicensable, perpetual, paid-up, royalty-free, worldwide license to exercise all IP Rights in Seller-Owned IP solely to the extent that such Seller-Owned IP would otherwise interfere with Boeing’s or its suppliers’, or Customers’ use or enjoyment of the Services, Buyer Specifications or Buyer-owned IP. In addition, if Buyer cancels all or part of this Contract for Seller default in accordance with the “Cancellation for Default” Article of this Contract, Seller hereby grants Buyer the right to exercise all IP Rights in Seller-Owned IP for the purpose of preventing interruptions to or stoppage of Boeing’s production lines or delivery of Boeing’s products to Customers.

c. Third Party IP. If Seller incorporates third-party IP into any contract deliverable, Seller shall obtain for Buyer at least the license rights granted in paragraph b of this Article in such third-party IP, at no additional cost to Buyer and hereby grant such rights to Buyer.

- d. Foreground IP. This subparagraph d. shall not apply to unmodified commercial off-the-shelf goods. If Services or goods are developed, modified or redesigned pursuant to this Contract then the paragraphs below apply.
- i. All Foreground IP shall be the exclusive property of Buyer.
 - ii. Seller hereby irrevocably assigns to Buyer all right, title and interest in the Foreground IP for no additional charge. Seller shall protect Foreground IP as Proprietary Information and Materials under this Contract and shall mark documents or portions of documents containing Foreground IP as “Boeing Proprietary” information or as otherwise directed by Buyer in writing.
 - iii. Seller shall, within two (2) months after conception or first actual reduction to practice of any invention and prior to Contract completion, disclose in writing to Buyer all inventions assigned hereunder, whether or not patentable, in sufficient technical detail to clearly convey the invention to one skilled in the art to which the invention pertains. Seller shall promptly execute all written instruments, and assist as Buyer reasonably directs in order to file, acquire, prosecute, maintain, enforce and assign Buyer’s Foreground IP rights. If Seller does not or cannot execute instruments or assist Buyer as described above, Seller hereby irrevocably appoints Buyer and any of Buyer’s officers and agents as Seller’s attorney in fact to act on Seller’s behalf and instead of Seller, with the same legal force and effect as if executed by Seller, with respect to executing any such written instruments.
- e. Buyer-Owned IP. Buyer shall retain ownership of all Buyer IP provided hereunder, including the Buyer Specifications, and of any Foreground IP assigned to Buyer pursuant to paragraph d. above (collectively, the “Buyer-Owned IP”). Buyer grants to Seller a non-exclusive, royalty-free right during the term of this Contract to exercise all IP Rights in the Buyer-Owned IP solely as necessary for Seller to perform its obligations under this Contract. Seller shall not, without Buyer’s prior written consent, use Buyer-Owned IP or any derivative works of any of the Buyer-Owned IP in any manner not authorized under this Contract, including, but not limited to, developing, manufacturing, obtaining a certification to manufacture, offering for sale or selling any product, equipment, or service which utilizes or is enabled by Buyer-Owned IP.