

1. CONTRACT FORMATION AND MODIFICATION

- a. This Order is Boeing's offer to Seller for performance under Government, Government Management Risk or Commercial contract funding, or a combination thereof. This Order, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Order.
- b. Acceptance by Seller is expressly limited to the terms of this offer. Seller's acceptance of Boeing's offer must be by commencement of performance or by seasonable written acknowledgement of this Order, but where Seller's acceptance is by commencement of performance, Boeing reserves the right to treat its offer as having lapsed before acceptance unless Boeing is notified of Seller's acceptance within a reasonable time. Any different or additional terms of Seller's acknowledgment are hereby objected to and rejected by Boeing regardless of the form of such acknowledgment. Upon Seller's acceptance, the Order shall become the complete and exclusive statement of the terms of the resulting Contract.
- c. The Contract (which term is intended to include Purchase Order [PO]) shall not be modified by or interpreted by reference to any course of dealing or usage of trade and shall not be modified by any course of performance. No modification of the Contract shall be effective unless in writing signed by the party to be charged with the modification. No modification shall bind Boeing unless signed by an authorized Boeing Purchasing Representative.
- d. If, in connection with this Contract, Seller is represented (directly or indirectly) by any former Boeing Procurement or Procurement decision-making employee, whose termination from Boeing is less than one (1) year prior to the date of this Contract; then this Contract is voidable in the sole discretion of Boeing.
- e. All documentation, notices, and oral communications concerning this Purchase Order/Contract shall use the English language. In the event that English communications are translated into another language for Seller's convenience, the meaning conveyed by the English version of the communication shall govern this Purchase Order/Contract and the Parties' performance thereunder.

2. INSPECTION, ACCEPTANCE, AND REJECTION

- a. All goods (which term throughout this Contract includes, without limitation, processes, technical information, computer software, raw materials, components, intermediate assemblies, end products and, where applicable, services to be performed hereunder) shall be subject to inspection and test at all times and places, including the period of manufacture, by Boeing, and also the Government if this is an order that is placed under a Government contract. Inspectors shall have access to all areas on the premises of the Seller or of Seller's subcontractors in which work on this Contract is being performed. If this Contract calls for the delivery of goods for installation on aircraft, the right of inspection and test shall extend to representatives of the Federal Aviation Administration, and, if nondomestic, equivalent foreign government agencies.
- b. Seller and Seller's subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost. Seller shall furnish to inspectors all information and data as may be reasonably required to perform their inspection. All goods to be delivered hereunder shall be subject to final inspection, test and acceptance by Boeing at destination, notwithstanding any payment or inspection at source. Boeing shall accept or give notice of rejection of goods delivered hereunder within a reasonable time after receipt of such goods. Acceptance by Boeing shall not waive any rights that Boeing might otherwise have at law or by express reservation in this Contract with respect to any nonconformity.
- c. Any tender of goods which is nonconforming as to the quality or quantity or the delivery schedule shall constitute a breach of this Contract and Boeing shall have the absolute right to reject such goods, in whole or in part, and notify Seller thereof. In the event of such a tender, Boeing shall be entitled to all remedies as provided by law, and in addition thereto shall have the right to do any or all of the following: (1) to hold such nonconforming goods for a reasonable period at Seller's risk and expense pending a determination to accept or reject any or all thereof; (2) to return such nonconforming goods to Seller at Boeing's election and at Seller's risk and expense for replacement or correction; (3) to accept such nonconforming goods subject to an equitable price reduction; (4) to replace or correct such nonconforming goods and charge to Seller the cost occasioned to Boeing thereby; (5) to recover by offset or otherwise any and all expenses, costs, price reductions, and damages paid, incurred, or suffered by Boeing as a result of such holding, return, replacement, correction, reductions, or rejections of nonconforming goods; or (6) to terminate this Contract as provided in Article 9 hereof.

3. QUALITY CONTROL AND CONTRACTUAL COMPLIANCE

- a. Seller shall provide and maintain a quality control system acceptable to Boeing for the goods and services purchased under this Contract, and Seller shall permit Boeing to review procedures, practices, processes and related documents to determine such acceptability. It is Boeing's policy to survey all sellers periodically to ascertain compliance with Boeing and U.S. Government requirements which have been made part of this Contract. Seller agrees to provide access to its premises for, and to cooperate with, Boeing in the conduct of those surveys.
- b. It shall be Seller's continuing obligation subsequent to delivery of goods for installation on aircraft to advise Boeing's Purchasing Representative in the event that Seller discovers any quality deficiency in the delivered goods with respect to approved specifications. Seller must provide written notice within twenty- four (24) hours of discovery using Form DAC 26-23B, Vendor Information Request (VIR) or any similar format providing the same information.
- c. Foreign procurement of metallic raw materials required to conform to federal, military, or industrial specifications shall be procured per the requirements and from those suppliers listed in Douglas Material Specification (DMS) 2201.

4. WARRANTY

- a. Inspection and acceptance of any goods by Boeing shall not be deemed to alter or affect the obligations of Seller or the rights of Boeing under the warranties herein or as may be provided by law.
- b. Seller warrants that all goods furnished hereunder will conform to the requirements of this Contract (including all descriptions, specifications and drawings made a part of this Contract), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by Boeing, free from defects in design. Boeing's approval of designs or specifications furnished by Seller shall not relieve Seller of its obligations under this warranty.
- c. In addition to its other remedies, Boeing may, at Seller's expense, require prompt correction or replacement of any goods and services failing to meet Seller's warranties herein. Goods and services corrected or replaced by Seller shall be subject to all of the provisions of this Contract in the manner and to the extent as goods originally furnished hereunder.
- d. All warranties, including special warranties specified elsewhere herein, shall inure to Boeing, its successors, assigns, customers and users of its products.

5. DELIVERY

- a. Seller shall strictly adhere to the delivery and completion schedules specified in this Contract. If, at any time, Seller believes it may be unable to comply with the delivery or completion schedules, Seller shall immediately notify Boeing's Purchasing Representative in writing of the probable length of any anticipated delay and the reasons for it, and shall continue to notify Boeing's Purchasing Representative of any material change in the situation. In the event of such notification or of an actual failure by Seller to comply with the delivery or completion schedules, Boeing may, in addition to all other remedies, require Seller, at Seller's expense, to ship goods via air freight or expedited routing to avoid or minimize delay.
- b. In the event of early delivery, Boeing may store goods at Seller's expense, unless delivery in advance of the contractual commitment date is expressly authorized within this Contract.
- c. The quantities specified for delivery on this Purchase Order/contract are the only quantities required by Boeing. Therefore, if Seller delivers quantities in excess of those specified in this Purchase Order/contract, Boeing shall not be required to make any payment for the excess goods and, at Boeing's election, may keep or return the excess goods at Seller's risk and expense.
- d. Seller shall provide bar coded shipping labels, as specified in this Purchase Order/Contract, on all unit loads and transport packages shipped to Boeing hereunder.

6. CHANGES

- a. Boeing may, at any time, exclusively in a writing signed by its authorized Purchasing Representative, and without notice to sureties, make changes within the general scope of this Contract which affect the (a) drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection delivery or acceptance; or (d) delivery schedules. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Contract, an equitable adjustment shall be made in the contract price or delivery schedule or

both, and the Contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this Article must be asserted in writing to Boeing's Purchasing Representative not later than thirty (30) days after the date of receipt by Seller of the written change authorization, or within such extension as Boeing may grant in writing. Boeing may, in its sole discretion, consider any such claim regardless of when asserted. Pending any such adjustment, Seller will diligently proceed with the Contract as modified. Where the cost of property made excess or obsolete as a result of a change is included in Seller's claim for adjustment, Boeing shall have the right to direct the manner of disposition of such property. Boeing shall have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim.

- b. Seller's claim for equitable adjustment shall be in the form of a complete change proposal fully supported by factual information and shall separately identify all increases and all decreases in costs. The claim shall be submitted by a senior company official in a signed writing that contains the following certification statement: "I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which (Seller) believes Boeing is liable".

7. INVOICE AND PAYMENT

- a. For each shipment of goods or completed item of services, Seller shall submit an original invoice marked "original" and one copy marked "copy" to the appropriate Boeing Accounts Payable Department. The prices set forth in this order includes all taxes, fees, levies and similar charges except for sales and use taxes. All sales and use taxes must be separately itemized. Purchase Order/Contract Number and Item Number must appear on all shipping documents, invoices, quality certifications, and packing sheets.
- b. Determination of payment due date, whether under net or discount terms, will be based on the latest of (1) the date goods are received or services are completed; (2) the date goods are scheduled to be shipped/received or services are scheduled for completion under the Contract; or (3) the date an accurate invoice is received. Unless early delivery of goods or services is expressly authorized by the Boeing Purchasing Representative, payment for goods or services received in advance of the contractual commitment date shall not be made prior to the contractual commitment date.
- c. Payment will be deemed to have been made when deposited in the mail.

8. TERMINATION FOR CONVENIENCE

Boeing may terminate this Contract for its convenience in whole or, from time to time, in part in accordance with the Clause entitled "Termination for Convenience of the Government" set forth in FAR 52.294-2, in effect on the date of this Contract, which Clause is incorporated herein by this reference, except Paragraphs (c) and (i). Further the period for submitting the subcontractor's termination settlement proposal is reduced to six (6) months and for requesting an equitable adjustment to forty-five (45) days. In the referenced Clause "Contractor" shall mean Seller and "Government" and "Contracting Officer" shall mean Boeing. If this Contract is not issued under a Government prime contract, subcontract, or Government Management Risk Contract fundings the "recordkeeping" requirement of said Clause shall be deemed deleted.

9. TERMINATION FOR DEFAULT

- a. Boeing may terminate the whole or any part of this Contract in any of the following circumstances:
 - (1) If Seller fails to deliver the goods or to perform the services required by this Contract within the time specified herein, or any extension thereof granted by Boeing in writing; or
 - (2) If Seller fails to perform any of the other provisions of this Contract or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two (2) circumstances does not cure such failure within a period of ten (10) days after receipt of notice from Boeing specifying such failure; or
 - (3) In the event of suspension of Seller's business, insolvency, 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.
- b. Boeing may require Seller to transfer title and deliver to Boeing in the manner and to the extent directed by Boeing (1) any completed goods, and (2) such partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights, (hereinafter called "manufacturing materials") as Seller has produced or acquired for the performance of this Contract, including the assignment to Boeing of Seller's subcontracts; and Seller shall protect and preserve property in possession of Seller in which Boeing has an

interest. Payment for completed goods delivered to and accepted by Boeing shall be at the contract price. Payment for manufactured materials delivered to and accepted by Boeing and for the protection and preservation of property shall be at a price determined in the same manner as provided in Article 8 hereof, except that Seller shall not be entitled to profit. Boeing may withhold from Seller monies otherwise due Seller for completed goods and/or manufacturing materials in such amounts as Boeing determines necessary to protect Boeing against loss due to outstanding liens or claims against said goods.

10. BOEING PROPRIETARY

Seller shall keep all property furnished by Boeing and all property to which Boeing acquires title by virtue of this Contract segregated and clearly marked and will maintain a complete inventory thereof. Seller assumes all risk of loss, destruction or damage to such property while in Seller's custody or control. Seller will immediately notify Boeing's Purchasing Representative in writing of any such loss, destruction or damage. Except for property incorporated in delivered end products, Seller will, upon termination or completion of this Contract, deliver such property, as directed by Boeing, in good condition subject to ordinary wear and tear and normal manufacturing losses.

11. NONDISCLOSURE; TECHNICAL DATA FOR CERTIFICATION, SIMULATION, TRAINING, OR INTERFACE

- a. The information contained in reports, drawings, documents, or other records which are furnished to Seller by Boeing shall not be disclosed by Seller to others and shall not be used for purposes other than the performance of this Contract without Boeing's written consent.
- b. The information furnished to Boeing by Seller in reports, drawings, documents, or other records shall not be disclosed by Boeing to others except as provided herein and shall not otherwise be used for purposes other than the performance of this Contract without Seller's written consent.
- c. Each party will recognize the other party's restrictive markings and impose such restrictions upon third parties, provided that such markings purporting to cover information already within a recipient's knowledge or which is obtainable from another source without restrictions or which for any reason is not protectable by law shall not be binding upon the recipient.
- d. Upon request, Seller shall provide Boeing at no additional charge, such existing technical data pertaining to Seller's Product as Boeing deems necessary for certification, training, simulation, or interface purposes. In support of those purposes only, Boeing may furnish such Seller data to third parties, in which case Boeing will impose Seller's restrictive markings (if any) in accordance with Subparagraph c, above. In the alternative and upon Boeing's request, Seller shall provide such data directly to Boeing-designated third parties also at no extra charge.
- e. Nothing in this provision shall limit either party's right to enter into data exchange agreements with each other or third-party recipients of the data to ensure further protection of a party's proprietary interests in such technical data. Nothing in this provision shall limit Seller's right to compensation in the event that necessary data must be created to support the certification, training, simulation, or interface technical objective.
- f. Nothing herein shall interfere with the rights of the U.S. Government as set forth in FAR 52.227-14 or DFARS 252.227-7013 where either of these provisions is included in the prime contract under which this order is issued.
- g. Seller shall include this provision, exclusive of Paragraph b, in all of its lower-tier subcontracts issued in support of this Contract, and this provision shall have precedence over any other provisions herein relating to the transfer of Seller's technical data.

12. EXPORT LICENSING INFORMATION/OFFSHORE PROCUREMENT

- a. Upon the request of Boeing's Purchasing Representative and without additional cost, Seller shall provide such information as may be necessary to support Boeing's application for export license(s) covering any items ordered hereunder.
- b. This Contract may contain defense related technical data. Boeing has obtained, or will obtain, the approval of the U.S. Government to furnish to Seller the data, and any other items hereunder requiring such approval, which are necessary for Seller to perform this Contract. U.S. Government approval is based upon the following International Traffic in Arms Regulations (ITAR) requirements (Reference 22 CFR, Sub-chapter M) with which Seller agrees to comply.
 - (1) Seller shall use the technical data furnished by Boeing only in the manufacture of defense articles in accordance with this Contract.

- (2) Seller shall not disclose or provide technical data furnished by Boeing to any person except authorized U.S. citizen, intending citizen, permanent resident alien (immigrant alien) employees and qualified subcontractors which require the data in performance of the subcontracts.
- (3) Seller shall not disclose or provide technical data furnished by Boeing to any foreign person either in the U.S. or abroad unless obtaining prior authorization directly from the U.S. Department of State Office of Defense Trade Controls (ODTC). ITAR defines a "foreign person" as any person who is not a U.S. citizen, immigrant alien (green card holder), or an intending citizen, and foreign corporation (corporation not incorporated in the U.S.), international organization, foreign government, and any agency or subdivision of foreign governments (i.e., diplomatic mission).
- (4) Seller shall not acquire any rights in the data furnished by Boeing except to use it in the performance of this Contract. Seller also shall not convey to its qualified subcontractors any greater rights in the data than Seller has. Seller's qualified subcontractors shall only have the right to use the data as required in performance of their subcontracts.
- (5) Seller shall deliver the defense articles manufactured in accordance with this Contract only to Boeing or to the U.S. Government.
- (6) Upon completion or termination of this Contract, Seller shall destroy or return to Boeing all technical data furnished to Seller by Boeing pursuant to this Contract. At Boeing's election, Boeing may direct Seller to return or destroy the data and may require Seller to certify in writing that Seller has complied.
- (7) Seller shall impose these requirements, (1) through (6), suitably revised to identify the parties properly, on all its subcontractors to which Seller intends to furnish technical data provided by Boeing for use by the subcontractors in performance of the subcontracts.

13. SUBCONTRACTING

Seller will not subcontract without Boeing's prior written consent for the design, development or procurement of the whole or any substantial portion of any goods ordered hereunder. This limitation shall not apply to Seller's purchases of standard commercial supplies or raw material.

14. SUSPENSION OF WORK

Boeing's Purchasing Representative may, by written order, suspend all or part of the work to be performed under this Contract for any period not to exceed ninety (90) days. Within such period, or any extension thereof to which the parties may agree, Boeing shall either: (a) cancel such suspension, or (b) terminate the work covered by suspension in accordance with Article 8 or Article 9 hereof. Seller shall resume work whenever a suspension is cancelled or expires. An equitable adjustment shall be made in the delivery schedule or contract price, or both, if: (a) the suspension results in a change in Seller's cost of performance or ability to meet the contract delivery schedule, and (b) Seller asserts a claim for adjustment within thirty (30) days after the end of the period of suspension.

15. NOTICES

- a. Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, Seller shall immediately give notice thereof, and all relevant information with respect thereto, and shall continue to notify Boeing of any material changes in the information required hereunder. Seller agrees to insert the substance of this Article in any subcontract hereunder wherein a labor dispute may delay the timely performance of this Contract.
- b. Any notice submitted by Seller, unless otherwise specified within this Contract, shall be in writing and directed to the Boeing Purchasing Representative indicated on the face of the Purchase Order/Contract.

16. DISPUTES

- a. Pending the final resolution of any dispute involving this Contract, Seller agrees to proceed with performance of this Contract, including the delivery of goods, in accordance with Boeing's instructions.
- b. Seller shall submit to Boeing's authorized Purchasing Representative a written demand for Boeing's final decision regarding the disposition of any dispute between the parties relating to this Contract, unless Boeing, on its own initiative, has already rendered such a final decision. Seller's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the contract it shall include a signed writing submitted by a senior company official containing the following certification statement:

"I certify that the written demand is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which (Seller) believes Boeing is liable."

- c. Any Boeing final decision shall be expressly identified as such, shall be in writing, and shall be signed by Boeing's authorized Purchasing Representative, except that Boeing's failure to render a final decision within ninety (90) days after receipt of Seller's demand shall be deemed a final decision adverse to Seller's contentions. Boeing's final decision shall be conclusive and binding regarding the dispute unless Seller commences an action to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d. Seller shall cooperate fully with Boeing in seeking a resolution of any dispute involving this Contract under the disputes procedure applicable to the Government prime or higher-tier contract and if Boeing elects to follow such procedures Seller shall not be entitled to demand a final decision under Paragraph b. above until such resolution. Seller shall be bound by the final outcome of the disputes procedure if: (1) Boeing has afforded Seller an opportunity to participate in Boeing's conduct of the dispute, or (2) Boeing, having decided to discontinue its own processing of the dispute, has afforded Seller an opportunity to assume the processing of the dispute in Boeing's name.
- e. Boeing and Seller shall bear their own costs of processing the dispute.
- f. Except with respect to security matters, which shall be governed by applicable security regulations, both parties agree that the Government will not be an indispensable party to the resolution of any dispute arising under any Contract issued under a Government contract.

17. WAIVER AND SEVERABILITY

Any action or inaction by Boeing or the failure of Boeing, on any occasion, to enforce any right or provision of this Contract shall not be construed to be a waiver by Boeing of its rights hereunder, and shall not prevent Boeing from enforcing such provision or right on any future occasion. A determination that any portion of this Contract is unenforceable or invalid shall not affect the enforceability or validity of any of the remaining portions of this Contract.

18. RIGHTS AND REMEDIES

The rights and remedies of Boeing herein are cumulative, and are in addition to any other rights or remedies that Boeing may have at law or in equity.

19. PRECEDENCE

In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply: (a) special terms and conditions; (b) general terms and conditions contained in this Form DAC 26-800; (c) specifications; and (d) all other attachments incorporated herein by reference. Boeing's specifications shall prevail over any subsidiary documents referenced therein. Seller shall not use any specification in lieu of those contained in this Contract without written consent of Boeing's authorized Purchasing Representative.

20. COMPLIANCE WITH AND APPLICABILITY OF LAWS

- a. Federal, State and Local Laws. Seller warrants that in the performance of this Contract, it shall comply with all applicable Federal, State and Local Laws, in addition to any specifically noted within this Contract.
 - (1) Federal Labor Standards Act. On its invoice or in other form satisfactory to Boeing, Seller shall submit certification that the products covered by this Contract were produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act (29 U.S.C. 201-209), as amended, and of regulations and orders of the U.S. Department of Labor issued under Section 14 thereof.
- b. Applicable Law. The rights and duties of the parties arising from or relating to the Contract shall be governed by and be construed and interpreted in accordance with the law, custom and usage applicable to U.S. Government contracts and subcontracts, as enunciated by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal government. To the extent that the foregoing is not dispositive, said contract rights, and duties shall be governed by and be construed and interpreted in accordance with the law of the state in which the Boeing Purchasing Department placing this Contract is located, regardless of the location of execution or performance of this Contract.
- c. If any provision herein is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.

21. INDEMNIFY AND HOLD HARMLESS

- a. Patent Trademark and Copyright Indemnity. Seller agrees to indemnify and hold harmless Boeing, its customers and users of its products, against any expense, loss or liability for any actual or alleged infringement of any patent, trademark or copyright, arising from or related to the use, sale, manufacture or disposal of the goods furnished to Boeing under this Contract. Upon receipt of timely notice of any claim or suit alleging such infringement, Seller agrees to defend Boeing, its customers and users of its products, or any of them, at Seller's expense.
- b. Seller shall also indemnify, defend and hold harmless Boeing from and against all losses, costs, fees and damages arising, directly or indirectly, from any actual or alleged failure by Seller to comply with any of the statutes, rules, regulations and orders herein.
- c. The obligations which FAR Clauses 52.215-24 and/or 52.215-25 of the Prime Contract required of Boeing are also required of Seller. In addition to any other remedies provided by law or under this PO/Contract, if Boeing is subjected to any liability resulting from Seller's (or its lower-tier subcontractor's) failure to comply with the aforementioned DAR Clauses, Seller agrees to indemnify and hold Boeing harmless to the full extent of any loss, damage or expense resulting from such failure.

22. PRICE WARRANTY

Seller warrants that the price of the goods to be furnished to Boeing under this Contract do not exceed the price charged by Seller to any other customer purchasing the same goods in like or smaller quantities and under similar conditions of purchase.

23. UTILIZATION OF SMALL BUSINESS, WOMEN-OWNED BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

In support of Government policy and consistent with its obligations under contracts issued under Government contracts, Seller agrees to accomplish the maximum amount of subcontracting to small business, women-owned business, and small disadvantaged business concerns and to use its best efforts to place subcontracts in areas of persistent or substantial labor surplus, where this can be done consistent with the efficient performance of this Contract and at prices no higher than are available elsewhere.

24. MATERIALS FURNISHED AND PROPERTY RIGHTS

- a. If Boeing furnishes any material for fabrication hereunder, Seller agrees: (1) not to substitute any other material in such fabrication without Boeing's written consent; (2) that title to such materials shall not be affected by incorporation in or attachment to any other property; and (3) that all such material or replacement material furnished at Boeing's expense shall be returned in the form of products (except that which became normal industrial waste) or unused material. Seller shall inspect any such material furnished by Boeing and shall have the right to reject nonconforming material upon inspection. Inaccuracies, out of tolerance conditions or inadequacies in materials which are accepted by Seller shall not excuse performance in strict accordance with the applicable specifications.
- b. Seller agrees that it will use all designs, tools, patterns, drawings, specifications, other information and equipment, title to which is in Boeing, only in the performance of this Contract and not otherwise, unless Boeing's prior written consent has been obtained. The foregoing shall not be construed as limiting the right of Seller to use such items in the manufacture of end products for direct sale to the Government to the extent that the Government has the right under a contract with Boeing, or otherwise, to authorize such use by Seller; provided that such use will not interfere with Seller's performance of this or other contracts from Boeing relating to Government contracts in effect at the time Seller enters into direct sale to the Government, that Seller furnishes prior written notice to Boeing of such intended use, and, to the extent practicable, Seller prominently identifies each such end product as being manufactured by Seller for direct sale to the Government. Seller's performance in strict accordance with the specifications shall not be excused by reason of any inaccuracy in tools or fixtures furnished by Boeing.

25. CITIZENSHIP REQUIREMENTS

- a. Employees of Seller who perform services under this Contract on the premises of Boeing shall be citizens of the United States of America (U.S.A.), its possessions or territories, in instances when the performance of such services requires Secret or Top Secret security classifications. If any employee of Seller who performs services on Boeing premises under this Contract is not a citizen of the U.S., its possessions or territories, and the performance of such services requires a Company Confidential security classification, Seller shall contact the cognizant Boeing Purchasing Representative prior to allowing said employee to perform such services. Following necessary coordination within Boeing, the Boeing Purchasing Representative shall provide specific instructions to

Seller. When the performance of work on Boeing premises does not require a security clearance above, Seller shall bear exclusive responsibility for providing employees who are qualified under the Immigration Reform and Control Act ("IRCA") and who have completed an I-9 Form.

- b. Upon the request of Boeing, Seller shall submit proof of citizenship or employment eligibility status to Boeing for each employee covered by Subparagraph a. who shall perform services under this Contract on the premises of Boeing. Examples of documents that may be considered satisfactory are state birth certificates, U.S. passports, U.S. naturalization papers, and green cards issued by the U.S. Department of Immigration and Naturalization. Consistent with IRCA, the order of presentment of such documents shall be the sole prerogative of Seller's employees. If these documents are not available, a compilation of other evidence may suffice. Upon acceptance of proof of citizenship or employment eligibility, Boeing may issue identification badges or cards to employees of Seller.
- c. Should Seller fail to comply with this Clause, Boeing may, at its option, terminate this Contract for default in accordance with Article 9 hereof. An example of such failure would be the submittal of falsified proof of citizenship or employment eligibility.

26. SPECIAL TOOLING

Unless otherwise specified in this Contract, the price includes the cost of gauges, jigs, fixtures, dies, molds, tools, patterns, and similar items of special tooling that may be manufactured or acquired by Seller for use in the manufacture, fabrication, or assembly of the goods called for herein, and unless FAR 52.245-17 is applicable to this Contract, or otherwise specified herein, title to such special tooling will remain in Seller.

27. NEW ITEMS OF MANUFACTURE

In the event (a) there are any new features of design incorporated in any goods made under this Contract as a result of Seller's compliance with the drawings or specifications of Boeing, (b) development cost for such features is being charged by Seller to Boeing, and (c) the goods to be made hereunder are not merely a slight modification of goods with respect to which Seller already possesses patent rights, then Seller grants to Boeing the right to make or have made such goods, together with a royalty-free, nonexclusive, irrevocable license under any U.S. patent covering such new features of design. If in connection with this Contract, the Government funds directly or indirectly the monies paid to Seller for development costs, Boeing shall have no right to make or have made the goods for which the Government funded the development.

28. ASSIGNMENT

Except as hereinafter provided, neither this Contract nor any duty, right or interest therein may be delegated, assigned, or otherwise transferred in any manner by Seller without the prior written consent of Boeing, and any effort to the contrary shall be void. Either party may, upon notice to the other, assign this Contract to any person, firm or corporation with which such party may merge or consolidate or to which such party may assign substantially all of its assets, and either party may assign claims for monies due or to become due hereunder to any bank, trust company or other financial institution, including any Government lending agency. The assigning party shall furnish the other party with two (2) signed copies of any such assignment.

29. PACKING

All items are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified (a) to show the number of the container and the total number of containers in the shipment, and (b) the number of the container in which the packing sheet has been enclosed. All shipments by Seller or its subcontractors must include packing sheets containing Boeing's Contract number, quantity, part number/size, description of the items shipped, and appropriate evidence of inspection. Materials for different contracts shall be listed on separate packing sheets.

30. SHIPPING INSTRUCTIONS

Shipments must be made as specified on the face of the Contract, except as subsequently modified in writing by Boeing or otherwise directed in writing by Boeing's Traffic Department. Originals of all bills of lading and express receipts shall be mailed to the Traffic Department of Boeing's consignee division.

31. CLEARANCE OF MATERIALS INTENDED FOR PUBLIC RELEASE

Seller shall issue no news release (including photographs and files), public announcement, advertisement, denial, or confirmation concerning all or any part of the subject matter of this Contract or any phase of any program hereunder without the prior written approval of Boeing.

32. OFFSET/CO-PRODUCTION

- a. Seller shall use its best efforts to cooperate with Boeing in fulfillment of any offset program obligation that Boeing may have accepted as a condition of the sale of an Boeing product to a foreign nation.
- b. Boeing expressly reserves the right to all "offset" credits resulting from co-production or other similar obligations entered into between Seller and foreign sources of any goods or services in support of the procurement hereunder. Seller may not, therefore, procure or offer to procure any goods or services ordered hereunder from any foreign source without the prior written approval of Boeing. The express reservation applies to not only the goods and services ordered hereunder but also to the procurement of additional quantities thereof by means of options or similar commitments obtained by Seller to fulfill anticipated requirements Boeing may have. Seller may not, therefore, enter into such procurements from foreign sources to support Boeing future requirements without Boeing's prior written approval.
- c. While Boeing's approval under the foregoing Paragraph may not be unreasonably withheld, Seller may be required to complete and file all necessary documentation in order to effect the passing through of offset credits to Boeing as a condition precedent to such approval.
- d. Any data to be provided to a foreign source shall be coordinated with Boeing in advance to ensure that any necessary export licenses are obtained prior to transfer of such data.

IF QUANTITIES UNDER THIS CONTRACT ARE DESIGNATED FOR USE UNDER A GOVERNMENT CONTRACT OR FOR GOVERNMENT MANAGEMENT RISK PURPOSES, THE FOLLOWING ADDITIONAL PROVISIONS SHALL APPLY TO THE NONCOMMERCIAL QUANTITIES. THE EFFECTIVE DATE OF THE FOLLOWING PROVISIONS SHALL BE THE DATE OF SUCH CLAUSES ON THE ISSUANCE DATE OF THIS CONTRACT, UNLESS OTHERWISE STATED IN THE BODY OF THIS CONTRACT.

33. GOVERNMENT CONTRACT CLAUSES

- a. The following Clauses which are incorporated by reference from the "Federal Acquisition Regulations" (FAR) apply to this Contract to the extent indicated. In all of the following Clauses "Contractor" shall mean Seller.
 - (1) 52-203-6 Restrictions on Subcontractor Sales to the Government.
 - (2) 52.203-12 Limitation on Payments to Influence Certain Federal Transactions. For purposes of this Clause, "offer" shall mean Seller's solicitation response.
 - (3) 52.204-2 Security Requirements (excluding any reference to the Changes Clause in the Prime Contract). This Clause only applies if access to classified material is required.
 - (4) 52.208-1 Required Sources for Jewel Bearings and Related Items.
 - (5) 52.210-5 New Material. The terms "Contracting Officer" means Boeing's Authorized Purchasing Representative and the term "Government" means Boeing in the last two sentences of this Clause.
 - (6) 52.210-7 Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property.
 - (7) 52.212-8 Defense Priority and Allocation Requirements. This Clause does not apply to Government Management Risk quantities.
 - (8) 52.215-1 Examination of Records by Comptroller General (excluding Paragraph [c]). This Clause only applies if this Contract exceeds \$10,000.
 - (9) 52.215-2 Audit - Negotiation. This Clause only applies if this Contract exceeds \$10,000.
 - (10) 52.215-22 Price Reduction for Defective Cost or Pricing Data. This Clause applies if FAR 52.215-24 is applicable to this Contract.
 - (11) 52.215-23 Price Reduction for Defective Cost or Pricing Data - Modifications. This Clause applies if FAR 52.215-22 is not applicable to this Contract.
 - (12) 52.215-24 Subcontractor Cost or Pricing Data. This Clause only applies if the cost or pricing data for this Contract is subject to certification pursuant to FAR 15.804.
 - (13) 52.215-25 Subcontractor Cost or Pricing Data - Modifications. This Clause applies when FAR 52.215-24 is not applicable to this Contract.
 - (14) 52.215-26 Integrity of Unit Prices (excluding Paragraph [c]).

- (15) 52.215-27 Termination of Defined Benefit Pension Plans. This Clause applies if certified cost or pricing data is required and pre or post-award cost determination is subject to FAR Subpart 31.2, "Contracts With Commercial Organizations."
- (16) 52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
- (17) 52.219-9 Small Business and Small Disadvantaged Business Subcontracting Plan. This Clause only applies if this Contract exceeds \$500,000 and Seller is not a small business concern.
- (18) 52.219-13 Utilization of Women-Owned Small Businesses. This Clause only applies if this Contract exceeds \$25,000, provided that it is not for personal services and is not to be performed entirely outside the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands.
- (19) 52.220-3 Utilization of Labor Surplus Area Concerns. This Clause only applies if this Contract exceeds \$25,000.
- (20) 52.220-4 Labor Surplus Area Subcontracting Program. This Clause only applies if this Contract exceeds \$500,000.
- (21) 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation. Boeing may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Boeing because of liabilities of Seller or its subcontractors under this Clause.
- (22) 52.222-20 Walsh-Healey Public Contracts Act.
- (23) 52.222-26 Equal Opportunity (Paragraphs [b][1] through [11] only). This Clause applies unless exempt pursuant to FAR 22.807.
- (24) 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans. This Clause only applies if this Contract is for \$10,000 or more.
- (25) 52.222-36 Affirmative Action for Handicapped Workers. This Clause only applies if this Contract exceeds \$2,500.
- (26) 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era. This Clause only applies if this Contract is for \$10,000 or more.
- (27) 52.223-2 Clean Air and Water. This Clause applies only if this Contract exceeds \$100,000.
- (28) 52.223-3 Hazardous Material Identification and Material Safety Data. This Clause only applies if this Contract involves hazardous material as referenced in Paragraph (a) thereof.
- (29) 52.225-10 Duty-Free Entry. This Clause only applies if (i) this Contract identifies supplies to be accorded duty-free entry into the customs territory of the U.S., or (ii) other foreign supplies in excess of \$10,000 may be imported into the customs territory of the U.S.
- (30) 52.225-13 Restrictions on Contracting With Sanctioned Persons.
- (31) 52.227-1 Authorization and Consent.
- (32) 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement. This Clause only applies if this Contract exceeds \$25,000.
- (33) 52.227-9 Refund of Royalties. This Clause only applies if the amount of royalties reported during negotiation of this Contract exceeds \$250.
- (34) 52.227-10 Filing of Patent Applications – Classified Subject Matter. This Clause only applies if this Contract covers, or is likely to cover, classified subject matter.
- (35) 52.227-11 Patent Rights – Retention by the Contractor (Short Form). This Clause only applies if this Contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization.
- (36) 52.227-12 Patent Rights – Retention by the Contractor (Long Form). This Clause only applies if this Contract is for experimental, developmental or research work and Seller is other than a small business firm or nonprofit organization.

- (37) 52.228-5 Insurance – Work on a Government Installation (unless otherwise stated in this Contract, the minimum amounts of insurance required shall be in accordance with FAR 28.307). The term "Contracting Officer" shall mean Boeing's Authorized Purchasing Representative. This Clause only applies to contracts which require more than the incidental performance of services on a Government installation within the United States, its possessions and Puerto Rico.
 - (38) 52.245-2 Government Property.
 - (39) 52.245-17 Special Tooling (excluding Paragraph [j]).
 - (40) 52.245-18 Special Test Equipment. The term "Contracting Officer" therein shall mean Boeing.
 - (41) 52.246-23 Limitation of Liability (the term "acceptance" means acceptance of supplies by the Government).
 - (42) 52.247-1 Commercial Bill of Lading Notations. This Clause only applies where direct shipment to the Government is specified.
 - (43) 52.247-63 Preference for U.S. – Flag Air Carriers.
 - (44) 52.247-64 Preference for Privately Owned U.S. – Flag Commercial Vessels.
- b. If this Contract is placed under a Department of Defense contract, the following Clauses which are incorporated by reference from the "Department of Defense Federal Acquisition Regulation Supplement" (DOD FAR Supplement) shall apply to this Contract to the extent indicated. In all of the following Clauses "Contractor" shall mean Seller. In Clause (22) Technical Data – Withholding of Payment, the terms "Contracting Officer" and "Government" shall mean Boeing.
- (1) 252.203-7001 Special Prohibition on Employment. This Clause, excluding Paragraph (f), only applies if this Contract exceeds \$25,000. The term "Contracting Officer" shall mean Boeing's Authorized Purchasing Representative.
 - (2) 252.204-7005 Overseas Distribution of Defense Subcontracts. This Clause, excluding Paragraph (d), only applies if this Contract exceeds \$100,000.
 - (3) 252.208-7000 Required Sources for Miniature and Instrument Ball Bearings.
 - (4) 252.208-7001 Required Sources for Precision Components for Mechanical Time Devices.
 - (5) 252.208-7002 Required Sources for High-Purity Silicon.
 - (6) 252.208-7003 Required Sources for High Carbon Ferrochrome.
 - (7) 252.208-7004 Notice of Intent to Furnish Precious Metals as Government-Furnished Material.
 - (8) 252.208-7005 Required Sources for Forging and Welded Shipboard Anchor Chain Items.
 - (9) 252.208-7006 Required Sources for Anti-Friction Bearings.
 - (10) 252.219-7000 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts). This Clause only applies if FAR 52.219-9 is applicable to the Contract.
 - (11) 252.223-7001 Safety Precautions for Ammunition and Explosives. This Clause only applies if this Contract involves ammunition and explosives (as defined in DFARS 223.7001) unless otherwise exempt under DFARS 223.7002. The terms "Contracting Officer" and "Government" shall mean Boeing herein. In addition, Seller hereby grants to the Government the right of access to review compliance with contract safety requirements. Boeing shall also have the right to direct Seller to cease performance of this Contract as a result of a serious uncorrected or recurring safety deficiency potentially causing an imminent hazard to DOD personnel, property or contract performance.
 - (12) 252.223-7002 Change in Place of Performance – Ammunition and Explosives. This Clause only applies if DFARS 252.223-7001 applies to this Contract.
 - (13) 252.225-7001 Buy American Act and the Balance of Payments Program.
 - (14) 252.225-7002 Qualifying Country Sources as Subcontractors.
 - (15) 252.225-7008 Duty-Free Entry – Qualifying Country End Products and Supplies. This Clause applies in contracts for supplies and in all contracts for services involving the furnishing of supplies, except if this Contract does not exceed \$25,000 or is a contract for supplies exclusively for use outside the United States.

Seller shall identify the Government contract (by its contract number) under which this Contract is placed on any shipping documents submitted to Customs covering supplies for which duty-free entry is to be claimed pursuant to this Clause.

- (16) 252.225-7011 Preference for Domestic Specialty Metals (Major Programs).
 - (17) 252.225-7014 Duty-Free Entry – Additional Provisions.
 - (18) 252.227-7013 Rights in Technical Data and Computer Software.
 - (19) 252.227-7018 Restrictive Markings on Technical Data.
 - (20) 252.227-7027 Deferred Ordering of Technical Data or Computer Software.
 - (21) 252.227-7029 Identification of Technical Data.
 - (22) 252.227-7030 Technical Data – Withholding of Payment.
 - (23) 252.227-7036 Certification of Technical Data Conformity.
 - (24) 252.227-7037 Validation of Restrictive Markings on Technical Data.
 - (25) 252.228-7006 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles. The term "Administrative Contracting Officer" means Boeing and Administrative Contracting Officer, and "Government" means Boeing or Government.
 - (26) 252.235-7004 Frequency Authorization. This Clause only applies if this Contract calls for developing, producing, testing, or operating a device for which a radio frequency authorization is required. The term "Contracting Officer" means Boeing's Authorized Purchasing Representative.
 - (27) 252.243-7001 Pricing of Adjustments.
 - (28) 252.246-7001 Warranty of Data. This Clause only applies if the delivery of data is required by this Contract. The warranty period as set forth in Paragraph (b) thereof shall be three (3) years from acceptance of the final items of data under this Contract. "Contracting Officer" and "Government" shall mean Boeing.
- c. If this Contract is placed under a National Aeronautics and Space Administration contract, the following Clauses which are incorporated by reference from the "National Aeronautics and Space Administration Federal Acquisition Regulation Supplement" (NASA FAR Supplement) shall apply to this Contract to the extent indicated. In all of the following Clauses, "Contractor" shall mean Seller.
- (1) 18-52.204-70 Report on NASA Subcontracts. This Clause (excluding Paragraph [e]) only applies if this Contract exceeds \$50,000.
 - (2) 18-52.223-70 Safety and Health. This Clause only applies if this Contract exceeds \$1,000,000 or construction, repair or alteration in excess of \$25,000 is involved, or involves the use of hazardous materials or operations.
 - (3) 18-52.223-71 Frequency Authorization. This Clause only applies if this Contract calls for developing, producing, testing or operating a device for which a radio frequency authorization is required.
 - (4) 18-52.227-70 New Technology - This Clause only applies to other than a small business firm or nonprofit organization for the performance of experimental, developmental or research work.
 - (5) 18-52.227-71 Requests for Waiver of Rights to Inventions.
 - (6) 18-52.227-85 Invention Reporting and Rights - Foreign. This Clause only applies if this Contract involves experimental, developmental or research work to be performed outside the U.S., its possessions and Puerto Rico by a nondomestic firm.
 - (7) 18-52.227-86 Commercial Computer Software – Licensing.
 - (8) 18-52.244-70 Geographic Participation in the Aerospace Program. This Clause only applies if this Contract is \$100,000 and over.
 - (9) 18-52.245-73 Financial Reporting of Government-Owned/Contractor-Held Property. (Excluding Paragraphs [b] and [d]). The reports required by this Clause shall be submitted to Boeing's Authorized Purchasing Representative.

34. SAFETY AND ACCIDENT PREVENTION

In performing work under this Contract on a Government installation, Seller shall (a) conform to the specific safety requirements contained in the Contract, and (b) for those related activities not directly addressed by this Contract, conform to the applicable safety rules prescribed by the Government installation, and (c) take such additional precautions as Boeing or the Contracting Officer under Boeing's Government contract may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected as directed by Boeing or the Contracting Officer, shall be grounds for termination of this Contract in accordance with the default provisions hereof. Boeing may, by written order, direct additional safety and accident standards as may be required under Boeing's Government contract and any adjustments resulting from such direction will be in accordance with the provisions of this Contract entitled "Changes."

35. FOREIGN MILITARY SALES

The Seller certifies that the price of this Contract does not include any direct or indirect costs of sales commissions or fees for Seller's sales representatives involved in Foreign Military Sales.

36. ANTI-KICKBACK ACT PROCEDURES

- a. The Contract Clause entitled "Anti-Kickback Act Procedures" set forth in FAR 52.203-7 is made a part of this Contract by this reference, with the following modifications: the term "the Contractor" shall mean Seller, and the term "the Contracting Officer" shall mean the contracting officer cognizant of the prime contract under which this Contract was awarded.
- b. By its acceptance of this Contract, Seller warrants and represents to Boeing that neither Seller nor any immediate or lower-tier subcontractor of Seller nor any person acting on behalf of any of them has engaged in conduct prohibited by Section 3 of the Anti-Kickback Act of 1986 (Public Law 99-634) relating to this Contract or any subcontract or lower-tier subcontract under this Contract. Seller shall indemnify, defend and save harmless Boeing, its officers, agents and employees, from all losses, costs, fees and damages resulting, directly or indirectly, in whole or in part, from any conduct prohibited as aforesaid in which Seller, any immediate or lower-tier subcontractor of Seller, or any person acting on behalf of any of them has engaged or hereafter engages relating to this Contract or any lower-tier subcontract under this Contract. Boeing shall have the right to withhold from any sums due Seller under this Contract: (1) if so directed pursuant to Section 6 of the aforesaid Act or pursuant to the Anti-Kickback Act Procedures Clause of the prime contract or higher-tier subcontract under which this Contract has been issued by the contracting officer or agency cognizant of the prime contract under which the Contract was awarded, or (2) to recoup losses, costs, fees and damages against the incurrence of which Seller has agreed in this Clause to indemnify Boeing. For purposes of this Clause, the definitions of the terms "subcontractor", "subcontract" and "person" shall be deemed to be those set forth in Section 2 of said Act.
- c. Any report made pursuant to this Clause shall also be made to the Boeing Ethics hotline:
(phone) 1-888-907-7171; (fax) 1-888-907-5330; (caller ID enabled; Australia Voice Line) 1-800-427-179.

37. RESTRICTIVE MARKINGS ON SELLER DATA

In the event that Seller data which are supplied to Boeing for subsequent delivery to the U.S. Government bear restrictive markings which are not in compliance with the data marking requirements of the U.S. Government contract, Boeing shall have the right to place the correct restrictive markings on the data at Seller's expense.