

**MODIFICATIONS TO GENERAL TERMS AND CONDITIONS
(C-17)
PRIME CONTRACT F33657-02-C-2001**

GOVERNMENT CONTRACT REQUIREMENTS

If Form GP1 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 29. If Form GP2 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 28. If Form GP3 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 41. If Form GP4 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 31. If Form MD-1965 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 36. If Form MDA-TA 26-858 is applicable to this procurement, the Government clauses set forth in Article 36 are hereby deleted and the following FAR/DFARS clauses are inserted in lieu thereof. If goods or services being procured under this contract are for commercial items and Clause 1086 is set forth in the purchase order/contract/ agreement referencing this Form MD-1870-41, the Government clauses set forth in Sections 1 and 2 below are deleted.

1. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller. Unless otherwise provided, the clauses are those in effect as of the date of this contract.

52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 1995 Version). This clause applies only if this contract exceeds \$100,000.

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (JUL 1995 Version). Buyer may withhold sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This clause applies only if this contract exceeds \$100,000.

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JUL 1997 Version). This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997 Version). This clause applies only if this contract exceeds the simplified acquisition threshold. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991 Version). This clause applies only if this contract exceeds \$100,000.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 1997 Version). This clause applies only if this Contract exceeds \$100,000. Paragraph (c)(4) is modified to read as follows: "(c)(4) Seller will promptly submit any disclosure required (with written notice to Buyer) directly to the PCO for the prime contract. Buyer will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor.

52.204-2 Security Requirements. "Changes clause" means the changes clause of this contract (AUG 1996 Version). This clause applies only if access to classified material is required.

52.211-5 New Material (AUG 2000 Version). Any notice will be given to Buyer rather than the Contracting Officer. The Seller is authorized the use of used or reconditioned material, residual inventory, or former Government Surplus property in performance of this contract; provided, that all such items furnished pursuant to this authorization shall be in a serviceable condition and show no evidence of deterioration.

52.211-15 Defense Priority and Allocation Requirements (SEP 1990 Version). This clause is applicable if a priority rating is noted in this contract.

52.215-14 Integrity of Unit Prices (excluding subparagraph (b)) (OCT 1997 Version) and Alternate I (OCT 1997 Version). This clause applies except for contracts at or below the simplified acquisition threshold (as defined in FAR Part 2); construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

52.219-8 Utilization of Small Business Concerns (OCT 2000 Version).

52.219-9 Small Business Subcontracting Plan (OCT 2001 Version). In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$500,000. and Seller is not a small business concern.

52.222-1 Notice to Government of Labor Disputes (FEB 1997 Version). "Contracting Officer" shall mean Buyer.

52.222-21 Prohibition of Segregated Facilities (FEB 1999 Version).

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (APR 2002 Version).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1998 Version). This clause applies only if this contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers (JUN 1998 Version). This clause applies only if this contract exceeds \$2,500.

52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Viet Nam Era (JAN 1999 Version). This clause applies only if this contract exceeds \$10,000.

52.223-3 Hazardous Material Identification and Material Safety Data (JAN 1997 Version). This clause applies only if Seller delivers hazardous material under this contract.

52.223-11 Ozone Depleting Substances (MAY 2001 Version).

52.225-8 Duty-free Entry FEB 2000 Version). This clause applies only if this contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States. For the purposes of this clause, the blanks in paragraph (f)(3) are completed as follows: UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE, Duty-free entry is claimed pursuant Section XXII, Chapter 98, Subchapter VIII, Item No. 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at port of entry, the importer or authorized agent will notify Commander, Defense Contract Management Area Operations (DCMAO, New York, 201 Varick Street, New York, New York, 10014-4811, Attention DCRN-NCT) for execution of Customs Forms 7501, 7501-A, or 7506 and required duty free entry certificates.

52.225-13 Restrictions on Certain Foreign Purchases (JUL 2000 Version).

52.227-1 Authorization and Consent (JUL 1995 Version).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996 Version). A copy of each notice sent to the Government will be sent to Buyer. "Contracting Officer" shall mean "Buyer". This clause applies only if this contract exceeds the simplified acquisition threshold.

52.227-12 Patent Rights - Retention by the Contractor (Long Form) (JAN 1997 Version). 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.

52.234-1 Industrial Resources Developed Under Defense Production Act Title III (DEC 1994 Version).

52.242-15 Stop Work Order (AUG 1989 Version). Change "90 days" and "30 days" to "100 days" and "20 days" respectively. The terms "Contracting Officer" and "Government" shall mean Buyer.

52.244-6 Subcontracts for Commercial Items and Commercial Components (MAY 2001 Version).

52.245-2 Government Property (DEC 1989 Version). "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer.

52.245-17 Special Tooling (APR 1984 Version).

52.245-18 Special Test Equipment (FEB 1993 Version). Change "30 days" to "45 days" in paragraph (b) and (c).

2. DoD Contracts. If this Contract is placed under a Department of Defense Contract, the following contract clauses are incorporated by reference from the Department of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller except as otherwise noted. Unless otherwise provided, the clauses are those in effect as of the date of this contract.

252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract Related Felonies (excluding paragraph (g)) (DEC 1991 Version). This clause applies only if this contract exceeds the FAR Part 13 simplified acquisition threshold and does not apply to the purchase of commercial items or commercial components. "Contractor" and "contract" are not changed in paragraphs (a) and (b). In paragraph (e), "Government" shall mean Government or Buyer. In paragraph (f), "through the Buyer" is inserted after "Contracting Officer". Paragraph (g) is deleted and "Contracting Officer" shall mean Contracting Officer.

252.204-7000 Disclosure of Information. Seller will submit requests for authorization to release through Buyer (DEC 1991 Version).

252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material (DEC 1991 Version). The term "Offeror" shall mean Seller.

252.209-7000 Acquisition From Subcontractors Subject to On-site Inspection Under the Intermediate-Range Nuclear Forces Treaty (NOV 1995 Version). This clause applies only if this contract exceeds the FAR Part 13 simplified acquisition threshold and does not apply to the purchase of commercial items or commercial components.

252.211-7000 Acquisition Streamlining (DEC 1991 Version). This clause applies only if this contract exceeds \$1 million.

252.223-7001 Hazard Warning Labels (DEC 1991 Version). This clause applies only if Seller delivers hazardous material under this contract.

252.223-7002 Safety Precautions for Ammunition and Explosives (DEC 1994 Version). This clause applies only if Seller delivers ammunition or explosives under this contract.

252.223-7007 Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (SEP 1999 Version).

252.225-7001 Buy American Act and Balance of Payment Program (MAR 1998 Version).

252.225-7009 Duty-free Entry — Qualifying Country Supplies (End Products and Components) (AUG 2000 Version).

252.225-7010 Duty-free Entry — Additional Provisions (AUG 2000 Version). This clause applies in addition to FAR 52.225-10. The following information is required to be furnished pursuant to this provision:

ACO	Tim Nowicki
Activity Address	DCMC Boeing Long Beach 2401 E. Wardlow Rd., M/C 56-79 Long Beach, California 90807-4481
Activity Address Number	S0544A
Prime Contractor	McDonnell Douglas Corporation, a wholly owned Subsidiary of The Boeing Company
Prime Contractor's Address	P.O. Box 22608 Long Beach, CA 90801-5608
Cage Code	FA8614
Prime Contract Number	F33657-02-C-2001
Prime Contract Dollar Value	\$9,761,999,989.00

252.225-7012 Preference for Certain Domestic Commodities (AUG 2000 Version).

252.225-7014, & Alternate I, Preference for Domestic Specialty Metals (MAR 1998 Version).

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (DEC 2000 Version). This clause does not apply to the purchase of commercial items other than ball or roller bearings or to items which contain no ball or roller bearings.

252.225-7026 Reporting of Contract Performance Outside the United States (JUN 2000 Version). This clause applies only if this contract exceeds \$500,000.

252.226-7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises – DoD Contracts (SEP 2001 Version). This clause applies if this contract exceeds the small purchase limitation and does not apply to the acquisition of commercial items/services as defined in FAR 2.101.

252.227-7013 Rights in Technical Data - Noncommercial Items (NOV 1995 Version). This clause applies only if the delivery of data is required for noncommercial items under this contract.

252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 1995 Version). This clause applies only if the delivery of noncommercial computer software or noncommercial computer documentation may be originated, developed or delivered under this contract.

252.227-7015 Technical Data - Commercial Items (NOV 1995 Version). This clause applies only if the delivery of data is required for commercial items under this contract.

252.227-7016 Rights in Bid or Proposal Information (JUN 1995 Version).

252.227-7019 Validation of Asserted Restrictions - Computer Software (JUN 1995 Version). This clause applies only if computer software may be originated, developed, or delivered under this contract.

252.227-7036 Certification of Technical Data Conformity (JAN 1997 Version). This clause applies only if the delivery of data is required by this contract.

252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999 Version). This clause applies only if the delivery of data is required by this contract.

252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (DEC 1991 Version).

252.239-7016 Telecommunications Security Equipment, Devices, Techniques and Services (DEC 1991 Version). This clause applies only if this contract requires securing telecommunications.

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (MAR 2000 Version).

252.245-7001 Reports of Government Property (MAY 1994 Version). Seller will provide information that the Buyer may require to complete Buyer's annual report.

252.246-7001 Warranty of Data (DEC 1991 Version). The warranty period in paragraph (b) is three years from the Government's acceptance of the final items of data under this contract. "Government" and "Contracting Officer" shall mean Buyer.

252.247-7023 Transportation of Supplies by Sea (MAR 2000 Version). This clause applies only if this contract exceeds the Simplified Acquisition Threshold in FAR Part 13. In paragraph (c), "45 days" is changed to "60 days".

252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000 Version). "Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" shall mean Buyer. This clause does not apply to the procurement of commercial items or commercial components.

252.249-7002 Notification of Proposed Program Termination or Reduction. This clause applies only if this contract is for \$500,000 or more. In paragraph (c), "two weeks" is changed to "10 days".

3. If goods or services being procured under this contract are for commercial items and Clause 1086 is set forth in the purchase order, the foregoing Government clauses in Sections 1 and 2 above are deleted and the following FAR/DFARS clauses are inserted in lieu thereof:

52.211-5 New Material (AUG 2000 Version). Any notice will be given to Buyer rather than the Contracting Officer. The Seller is authorized the use of used or reconditioned material, residual inventory, or former Government Surplus property in performance of this contract; provided, that all such items furnished pursuant to this authorization shall be in a serviceable condition and show no evidence of deterioration.

52.219-8 Utilization of Small Business Concerns (OCT 2000 Version). Include in all subcontracts that offer further subcontracting opportunities. If a subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the Seller and any lower tier subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

52.219-9 Small Business Subcontracting Plan (OCT 2001 Version). In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$500,000. and Seller is not a small business concern.

52.222-1 Notice to Government of Labor Disputes (FEB 1997 Version). "Contracting Officer" shall mean Buyer.

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (APR 2000 Version).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1998 Version). This clause applies only if this contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers (JUN 1998 Version). This clause applies only if this contract exceeds \$2,500.

52.223-3 Hazardous Material Identification and Material Safety Data (JAN 1997 Version). This clause applies only if Seller delivers hazardous material under this contract.

52.225-8 Duty-free Entry FEB 2000 Version). This clause applies only if this contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States. For the purposes of this clause, the blanks in paragraph (f)(3) are completed as follows: UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE, Duty-free entry is claimed pursuant Section XXII, Chapter 98, Subchapter VIII, Item No. 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at port of entry, the importer or authorized agent will notify Commander, Defense Contract Management Area Operations (DCMAO, New York, 201 Varick Street, New York, New York, 10014-4811, Attention DCRN-NCT) for execution of Customs Forms 7501, 7501-A, or 7506 and required duty free entry certificates.

52.227-1 Authorization and Consent (JUL 1995 Version).

52.245-2 Government Property (DEC 1989 Version). This clause only applies if Government property has been furnished to the Seller under this contract. "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer.

252.225-7009 Duty-free Entry — Qualifying Country Supplies (End Products and Components) (AUG 2000 Version).

252.225-7010 Duty-free Entry — Additional Provisions (AUG 2000 Version). This clause applies in addition to FAR 52.225-10. The following information is required to be furnished pursuant to this provision:

ACO	Tim Nowicki
Activity Address	DCMC Boeing Long Beach 2401 E. Wardlow Rd., M/C 56-79 Long Beach, California 90807-4481
Activity Address Number	S0544A
Prime Contractor	McDonnell Douglas Corporation, a wholly owned Subsidiary of The Boeing Company
Prime Contractor's Address	P.O. Box 22608 Long Beach, CA 90801-5608
Cage Code	FA8614
Prime Contract Number	F33657-02-C-2001
Prime Contract Dollar Value	\$9,761,999,989.00

252.225-7014, Alternate I, Preference for Domestic Specialty Metals (MAR 1998 Version).

252.227-7015 Technical Data - Commercial Items (NOV 1995 Version). This clause applies only if the delivery of data is required for commercial items under this contract.

252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (DEC 1991 Version).

252.245-7001 Reports of Government Property (MAY 1994 Version). This clause only applies if Government property has been furnished to the Seller under this contract. Seller will provide information that the Buyer may require to complete Buyer's annual report.

252.247-7023 Transportation of Supplies by Sea (MAR 2000 Version). This clause applies only if this contract exceeds the Simplified Acquisition Threshold in FAR Part 13. In paragraph (c), "45 days" is changed to "60 days".

252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000 Version). "Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" shall mean Buyer. This clause does not apply to the procurement of commercial items or commercial components.

4. The following prime contract special provisions apply to this purchase order:

A. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Seller shall provide immediate notice to Buyer in the event of being suspended, debarred or declared ineligible by any Department or other Federal Agency, or upon receipt of a notice of proposed debarment from any DoD Agency, during the performance of this Contract.

B. GOVERNMENT PROPERTY

The Seller agrees that it will not directly or indirectly, through overhead charges or otherwise, include in the price of this contract, or seek reimbursement under this contract for, any rental charge paid by the Seller for use on other contracts of the facilities referred to herein. Any subcontract hereunder which authorizes the subcontractor to use Government facilities on a no-charge basis shall contain a provision to the same effect as this paragraph 4.B.

C. GOVERNMENT VISITS

The Government Contracting Officer or the Contracting Officer's representative may, at their discretion, visit the Seller's facility(ies) to review progress pertaining to the requirements of this contract.

D. TRAINING SYSTEMS COOPERATIVE ENABLING AGREEMENT

(1) The Seller agrees to provide, at a minimum, the Government designated Training contractor(s) with:

(a) All necessary design, performance, operational and characteristic (including flight test data) technical data of the C-17 system. If the Training Systems contractor(s), with Government concurrence, determines that the data provided is not adequate for Training Systems design, the Seller agrees to create and provide said data to the Training Systems contractor(s), within the scope of this contract. Differences between the contractors on the need for additional data will be resolved by the Government.

(b) All technical data relating to the Producibility Enhancement/Performance Improvement (PE/PI) contract proposals, C-17 Engineering Change Proposals (ECP's), deviations, waivers or any other comparable documents that may change the Training Systems design. The Seller will release the technical data to the Training Systems contractor(s) as it is developed. The technical content of the proposals will be forwarded to the Training Systems contractor(s) as soon as practical, to enable Training System change proposals to be released concurrently with the aircraft proposals. Additionally, a copy of the final C-17 change proposal will be forwarded to the Training Systems contractor(s) concurrent with release to the Procuring Contracting Officer (PCO).

(c) All technical data, and computer software, specifically developed in the Seller's internal simulation activities for the C-17 that the Government determines may otherwise be useful to the Training Systems contractor(s).

(2) The Seller agrees to sell to the Training Systems contractor(s) any C-17 aircraft parts required for the development, manufacture, or support of the Training Systems concurrent with the C-17 production and/or retrofit buy and negotiate an agreement with the Training Systems contractor(s) for control and nondisclosure of technical data and computer software data required by the Training Systems contractor(s)

which is considered by Seller to be proprietary, provided that such data has not been delivered nor is deliverable under this or any other Government contract with unlimited rights as defined in the clause entitled, "Rights in Technical Data and Computer Software" of this contract.

(3) The cooperative enabling agreement shall also establish the capability for the Training Systems contractor(s) to provide to Buyer the training impact data and budgetary cost estimates associated with implementing changes.

(4) Under this contract the Seller shall perform only that effort and charge only those costs associated with the Training Systems Cooperative Enabling Agreement which are applicable to the Production effort.

E. SELLER LIABILITY FOR BREAKOUT OF SUPPORT EQUIPMENT, SPARES, REPAIR OF REPARABLES, RETROFIT AND MODIFICATIONS

(1) The Seller warrants the accuracy and completeness of its and its subcontractors' newly developed and/or developmentally modified design disclosure drawing(s) for Government use and/or Government breakout to third parties skilled in the applicable art, in the manufacture, retrofit, repair or modification of C-17 items. With respect to the above engineering data, the Seller makes no warranties express or implied including but not limited to the warranty of merchantability or fitness for a particular purpose. The Seller shall in no event be liable for incidental or consequential damages resulting from the misuse of (deviation from) the requirements specified on the design disclosure drawings.

(2) Seller shall not be held liable for claims or incidental and consequential damages arising out of the Government's misuse of or the Government breakout of control drawings to third parties wherein:

- (a) The items or components are manufactured to new third party or Government design; and/or
- (b) The third parties or the Government substitute material specifications and/or manufacturing processes other than Seller's material and/or process specifications specified on the Seller's or its subcontractors' engineering data; and/or
- (c) The third parties or the Government manufacture, repair, retrofit, or modify items or components to engineering data developed by third parties or the Government to form, fit, and function requirements depicted on C-17 control drawings.

F. DATA RIGHTS FOR COMMERCIAL STANDARDS

(1) Douglas Process Standards (DPS), Douglas Material Specifications (DMS), Douglas Process Material (DPM), and equivalent Seller and subcontractor documents that were developed exclusively at private expense which are called out on engineering drawings applicable to the C-17 and portions of Extended Range Fuel Containment System (ERFCS) drawings developed exclusively at private expense may be used, duplicated or disclosed within the Government for C-17 purposes without restriction. These documents may be released or disclosed outside the Government and the Government may authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose these documents if directly related to United States Government C-17 purposes. Prior to release or disclosure of the data outside the Government, the intended recipient shall complete and sign the Use and Non-Disclosure Agreement at DFARS 227.7103-7 paragraph (c). As used in this clause, "Government C-17 purpose" means any directly related C-17 activity in which the United States Government is a party, including cooperative agreements with international or multinational defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government C-17 purposes include competitive procurement for C-17 purposes, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose these documents data for commercial purposes, nor authorize others to do so.

(2) Any data delivered in accordance with paragraph (a) above shall be marked with the following legend:

RESTRICTIONS

Contract Number: F33657-02-C-2001

Contractor Name: McDonnell Douglas Corporation – a wholly owned subsidiary of The Boeing Company
 Contractor Address: 2401 E. Wardlow Road, Long Beach, California 90807-5309
 Expiration Date: Not subject to expiration

These documents may be released or disclosed both inside and outside the Government and the Government may authorized persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data if directly related to United States Government C-17 purposes. Prior to release or disclosure of the document data outside the Government, the intended recipient shall complete and sign the Use and Non-Disclosure Agreement at DFARS 227.7103-7 paragraph (c). As used in this clause, “Government C-17 purpose” means any directly related C-17 activity in which the United States Government is a party, including cooperative agreements with international or multinational defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government C-17 purposes include competitive procurement for C-17 purposes, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose these documents for commercial purposes, nor authorize others to do so. Any reproduction of this document or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) This special Contract Requirement is intended to set forth additional rights granted the Government in accordance with paragraph (c) of DFARS 252-227-7015, Technical Data - Commercial Items.

G. PRIOR GOVERNMENT DATA RIGHTS

Technical data and computer software (in accordance with DFARS 252.227-7013(b)(5) and DFARS 252.227-7014(b)(5)) that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights, shall be delivered, furnished, or provided with the pre-existing rights, unless,

(1) The parties have agreed otherwise; or

(2) Any restrictions on the Government’s rights to use, modify, reproducr, release, peform, display, or disclose the data have expired or no longer apply.

H. MATERIAL INSPECTION AND RECEIVING REPORT

The Seller shall comply with this provision if the Goods purchased by Buyer under this Contract are to be shipped directly to the U.S. Government or to a foreign destination.

(1) As specified by DFARS, Appendix F, Table 2, a copy of DD Forms 250 shall be forwarded to the following address:

(a) Forward the Government purchasing office copy to ASC/YCKC, Bldg 558, Loop Road West, Wright – Patterson AFB, OH 45433-7142.

(b) For shipments involving foreign Military Assistance Program (MAP), Grant Aid (GA), or Foreign Military Sales (FMS) requirements, an additional copy shall be sent to: Not Applicable.

(c) Additional distribution of DD Forms 250 is to be made to the following addresses: Not Applicable.

(2) These special instructions shall be included in any subcontract hereunder where the items purchased from the subcontractor are to be shipped directly to the U.S. Government or to a foreign destination.

(3) If delivery of MAP, GA, or FMS items to foreign destinations is required, the copies of DD Forms 250 required by DFARS, Appendix F, Table 2, Material Inspection and Receiving Report, Special Distribution, shall be forwarded to the “ship to” address designated in the contract.

I. SAFETY AND ACCIDENT PREVENTION

(1) In performing work under this Contract on a Government installation, Seller shall:

- (a) Conform to the specific safety requirements contained in the Contract;
- (b) Comply with the safety rules of the Government installation that concern related activities not directly addressed by this Contract;
- (c) Take all reasonable steps and precautions to prevent accidents and preserve the health and safety of Seller, Buyer and Government personnel performing or in any way coming in contact with the performance of this contract; and
- (d) Take such additional immediate precautions as Buyer or the Contracting Officer under Buyer's Government contract may reasonably require for health safety purposes.

(2) If this contract is performed on an Air Force installation, the Air Force Occupational Safety and Health Standards (AFOSH) developed in accordance with AFI 91-301, Air Force Occupational Safety, Fire Prevention, and Health Program in effect on the date of this contract, apply. If contract performance is on other than an Air Force installation, the Seller shall comply with the safety rules of that Government installation, in effect on the date of this contract.

(3) Buyer may, by written notice to the Seller, direct Air Force Occupational Safety and Health Standards (AFOSH) and/or health/safety standards as may be required in the performance of this contract and any adjustments resulting from such direction will be in accordance with the article set forth in the General Terms and Conditions entitled "Changes."

(4) Any violation of these safety rules and requirements, unless promptly corrected as directed by Buyer or the Contracting Officer, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

(5) If Form MD-1965 or MDA-TA 26-858 is applicable to this contract, Article 30 of said Form is deleted in its entirety and this Article is substituted in lieu thereof.

J. FOREIGN OBJECT DAMAGE/CONTROL

Seller shall establish and maintain systems and procedures necessary to provide a program of foreign object damage/control.

K. OZONE DEPLETING SUBSTANCES

The Seller shall not (i) include any specification, standard, drawing or other document that requires the use of a Class I Ozone Depleting Substances (ODS) in the design, manufacture, test, operation, or maintenance of any system, subsystem, item component or process, or (ii) include any specification, standard, drawing or other document that establishes a requirement that can only be met by use of a Class I ODS. The Seller shall notify the Buyer's Purchasing Agent if any Class I ODS is used or anticipated to be used in the design, manufacture, test, operation, or maintenance of any system, subsystem, item, component or process set forth in this Contract. The ODSs covered by this provision are those set forth in AF FAR Supplement Clause 5325.223-9000.

L. LICENSE AGREEMENT FOR SELLER'S PROPRIETARY SOFTWARE PRODUCT

(1) Introduction. This License Agreement for Seller's Proprietary Software Product applies to the Software Product licensed to Buyer by the Seller for use worldwide in or in support of the C-17 aircraft that are manufactured by Buyer and sold or leased to customers.

(2) Definitions. For the purposes of this Article, the following words have the meanings set forth below:

- (a) "C-17" means the C-17 aircraft including all present or future military and commercial C-17 derivative aircraft, spare parts, associated training systems, ground support equipment and test equipment.
- (b) "Customer" means the US Government, foreign governments and commercial operators who lease or purchase C-17 or C-17 derivative aircraft.

(c) "Software Product" means the machine code in form of object code provided by the Seller to Buyer which has been or will be downloaded or in the case of firmware, embedded into C-17 equipment that has been or will be delivered by Buyer to Customers for C-17 purposes.

(d) "Software Supplier" means Seller.

(3) Title and Copyright. All title and copyright in and to the Software Product are owned by Seller. This Software Product is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Software Product is licensed and not sold to Buyer or its Customers. All rights not expressly granted by Seller are reserved.

(4) Buyer Restricted Rights. This License Agreement grants Buyer the following worldwide, nonexclusive rights and imposes on Buyer the following restrictions:

(a) Buyer may, install, access, run or otherwise use and interact with the Software Product for itself or on behalf its Customers, for any C-17 aircraft purpose (including aircraft certification purposes), and for C-17 original equipment manufacturing purposes including design, production, integration, installation, testing, evaluation, accident investigation, and delivery of C-17 aircraft, including use in the C-17 Avionics Integration Support Facility, and for the in service support, including training, operation, and maintenance, and for monitoring and evaluation of Customers' C-17.

(b) Buyer may copy the Software Product for purposes of integration and uploading into the C-17, and make backup copies of the Software Product for purposes of safekeeping.

(c) Buyer may grant a sublicense to C-17 Customers, to use the Software Product for the in-service support, training, operation, and for monitoring and evaluation of Customer's C-17 aircraft, and to make back-up copies of the Software Product or purposes of safekeeping, provided the Customers have agreed to comply with the restrictions in Customer License Rights, listed below. Buyer, in all contracts with its Customers involving the Software Product, shall provide a direct right of enforcement against the Customer by the Supplier as a third party beneficiary of the sublicense terms. A sublicense from Buyer to a Customer under this license shall survive Seller termination of this license with Buyer, but a Customer's rights in the Software Product may be terminated by the Seller for non-compliance with the Customer License Rights (as set forth below).

(d) Buyer may only provide the Software Product, including a backup copy, to its Customers who are bound by the terms and conditions of their contract with Buyer to the rights and restrictions listed under Customer License Rights as set forth below.

(e) Buyer may not loan, rent, lease, disclose or otherwise transfer the Software Product to another user, contractor, subcontractor, or agent or any third party without the prior written authorization of Seller. Third parties do not include Customers, and the Customers' prime contractors, subcontractors and agents, who have been authorized by the Customer and restricted by written agreement to use the Software Product only in support of the Customer's C-17 aircraft, subject to the restrictions in the Customer License Rights listed below.

(f) Buyer shall not itself or through its contractors, subcontractors or agents, reverse engineer, decompile, disassemble, modify, or create derivative works of the Software Product, in whole or in part, or attempt in any way to determine the source code from the Software Product.

(g) Buyer shall upon request provide to the Supplier a listing of all foreign government and commercial C-17 Customers who are bound by a written agreement specifying the rights and restrictions listed under Customer License Rights as set forth below. Buyer will inform the Supplier if Buyer becomes aware of any violations of Customer License Rights by the Customer or any Customer's contractors, subcontractors and agents.

(h) Buyer acknowledges that the Supplier may from time to time, and subject to a separate mutually acceptable purchase contract, supply Buyer with support services, including software modifications and upgrades, related to the Software Product. Any software modifications and upgrades provided to Buyer as part of these support services shall be considered part of the Software Product and subject to these license terms.

(5) Customer License Rights. The sublicense between Buyer and its Customers shall be limited to the following rights and restriction:

- (a) U.S. Government Prior Rights. If the software Product was first delivered to the U.S. Government under a prime contract subject to DAR 7-104.9(a)(b)(3), or DFARS 252.227-7013 (c)(6) (October 1988), the other terms of this license notwithstanding, the U.S. Government retains its prior rights obtained under these DAR and/or 1988 DFARS clauses as recorded in TABLES A, B and/or C and listed in "The Attachment" to the C-17 prime contracts under which the Software Product was first delivered to the U.S. Government, in accordance with the clause at DFARS 252.227-7014(e) (June 1995)
- (b) Use of the Software Product is limited to use in the C-17 aircraft operated by the Customer, the associated C-17 training systems/ground support/test equipment and C-17 spare parts.
- (c) The Customer shall have the right to copy and use the Software Product embedded or otherwise included in the C-17 for the In Service Support, Training, Operation, Monitoring and Evaluation of the Customer's C-17, and for Customer certification purposes necessary to introduce the C-17 into service.
- (d) The Customer shall not provide or otherwise make available for any purpose including copying, the Software Product to any third party without the prior written approval of the Seller. Third parties do not include prime contractors (e.g., the US Government, under a Foreign Military Sale arrangement, and The Boeing Company), subcontractors and agents of the Customer who have signed a written agreement to use the Software Product only in accordance with these Customer License Rights and who have the Customer's authorization to use the Software Product only for the in-service support, training, operation, monitoring and evaluation, and certification of the Customer's C-17 aircraft.
- (e) The Customer's, or on its behalf its contractors', subcontractors' or agents', use of the Software Product is limited to use in the associated hardware item procured by Buyer for the Customer's C-17 aircraft.
- (f) The Customer, its contractors, subcontractors or agents, will not reverse engineer, decompile, disassemble, modify, or create derivative works of the Software Product, in whole or in part, or attempt in any way to determine the source code for the Software Product.
- (g) The Software Supplier shall be a third party beneficiary of these Customer License Rights as applied to the Customer and shall have a direct right of enforcement against the Customer. Software Supplier may terminate these Customer License Rights on six (6) months prior written notice in the event a Customer fails to comply with these Customer License Rights and fails to cure its non-compliance within sixty (60) days of notification of the non-compliance.
- (6) Term and Termination. This License Agreement shall be perpetual in duration. However, this License Agreement may be terminated by Seller on six (6) months prior written notice if Buyer fails to comply with the terms and conditions of this License Agreement and fails to cure its non-compliance within sixty (60) days of notification of the non-compliance. Buyer may terminate this License Agreement at any time by ceasing use and destroying or returning any embodiments of the Software Product recorded in a tangible media to Seller. Termination of this license shall not automatically terminate the sublicenses between Buyer and its Customers.