

## **SECTION 5**

### **BOEING-MESA GENERAL PROVISIONS (Mesa Unique General Provisions)**

### **SHORT-FORM COMMERCIAL NON-PRODUCTION GOODS CONTRACT**

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**BOEING-MESA GENERAL PROVISIONS**  
**SHORT FORM - COMMERCIAL NONPRODUCTION GOODS UNDER \$2500 (February 2001)**  
(Reference Copy Only: Official Version on Internet)

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

**2. CHANGES.**

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

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

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

**3. ACCEPTANCE AND REJECTION.**

(a) Buyer shall accept the Goods or give Seller notice of rejection within a reasonable time after receipt at destination, notwithstanding any payment or prior test or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance, shall relieve Seller of any obligations under this contract or impair any rights or remedies of Buyer or Buyer's customer. Acceptance shall be conclusive, except for latent defects, fraud or gross mistakes amounting to fraud.

(b) If Seller delivers nonconforming Goods, Buyer may, at its option and at Seller's expense: (i) return the Goods for credit or refund; (ii) require Seller to promptly correct or replace the Goods; (iii) correct the Goods; or (iv) obtain replacement Goods from another source. Seller shall not redeliver corrected or rejected goods without disclosing the former rejection or requirement for correction. When required, Seller shall disclose the corrective action taken. Repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Buyer's Authorized Purchasing Representative may reasonably direct.

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

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

