



## Section 8 : GENERAL TERMS AND CONDITIONS

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### 865. Additional General Provisions (Cost Reimbursement Contract Under Government Prime Contract) (6/14/99).

The following terms and conditions are in addition to the terms and conditions in GP4, The Boeing Company General Provisions (Cost Reimbursement Contract Under Government Prime Contract). In some cases, they modify or supplement terms and conditions with the same or similar titles as in GP4.

#### 1.INSPECTIONS

Seller will keep records evidencing inspections and their results and will make these records available to Buyer and the Government, where applicable, during contract performance and for four years after final payment.

#### 2.INVOICE AND PAYMENT

For each shipment of goods or completed item of services, Seller will submit an original invoice marked "Original" and one copy marked "Copy" to Buyer's appropriate Accounts Payable Department.

#### 3.BUYER'S USE OF DATA AND INFORMATION

(This article applies only if this contract is issued under a Government prime contract or subcontract.)

Seller agrees that any data such as drawings, instructions, or information furnished to Buyer in connection with this contract will be free from confidential, proprietary, or restrictive-use markings, other than statutory patent, copyright, U.S. Government security notices, or properly applied restrictive legends permitted by appropriate FAR, Department of Defense FAR Supplement (DFARS), or NASA FAR Supplement clauses incorporated herein. Buyer, its agents, or its assignees may duplicate or use such documents in connection with the manufacture, use, or disposition of the material furnished under this contract and may remove, obliterate, or ignore any such marking as may be on such documents unless such markings are specifically permitted by applicable FAR, DFARS, or NASA FAR Supplement clauses. Except as may be otherwise provided in this contract, all information and data disclosed or furnished to Buyer in connection herewith will be deemed to be disclosed or furnished as part of the consideration for this contract, and Seller agrees not to assert any claims (except claims for patent infringement) by reason of any use, duplication, or disclosure thereof.

#### 4.PRECEDENCE

(A)If the various parts of this contract are inconsistent, the following order of precedence will apply: (i) special terms and conditions; (ii) the terms and conditions in this document, Clause 865; (iii) the terms and conditions in GP4; (iv) specifications; (v) all other attachments incorporated in this contract by reference.

(B)Buyer's specifications will prevail over any subsidiary documents referenced therein. Seller will not use any specification in lieu of those contained in this contract without the written consent of Buyer's authorized purchasing representative.

## 5.SHIPPING INSTRUCTIONS

Seller will ship the goods in accordance with the instructions set forth below and the specific routing terms incorporated in this contract.

(A)Buyer's contract number will be referenced on all shipping documents.

(B)Notwithstanding Article 3(b)(v) in GP4, "Prepay and Add" is not authorized.

(C)Third Party/Direct Shipments must adhere to the instructions set forth herein and, if Buyer is responsible for the freight costs, must be shipped "Third Party Collect" to Buyer.

(D)Seller will contact Buyer's Traffic Management Department referenced elsewhere in this contract or Buyer's authorized purchasing representative prior to shipping the following types of shipments:

(i)Classified Shipments

(ii)Electronics

(iii)Shipments of hazardous materials, including explosives

(iv)Oversize shipments

(v)Refrigeration shipments

(vi)Shipments exceeding 1000 pounds in gross weight

(vii)Shipments requiring special handling or equipment (i.e., air ride equipment, fragile items, heavy haul trailers, etc.)

(viii)Same-day or courier deliveries

(ix)Counter-to-counter airfreight

(x)Truckload shipments

(E)Seller's failure to comply with the shipping instructions in this contract will result in Seller being liable for loss or damage in transit. In addition, excess freight charges and a \$100 administrative processing fee will be debited to Seller.

(F)Seller will contact Buyer's Traffic Management Department referenced elsewhere in this contract or Buyer's authorized purchasing representative with inquiries or requests for special instructions.

## 6.QUALIFIED PRODUCTS LIST (QPL) ITEM SOURCES

(A)If Seller is a seller of QPL items and this contract requires QPL items, Seller certifies:

(i)By acceptance of this order, that it is a qualified manufacturer listed, or approved for listing, on the

applicable Qualified Products List.

OR

(ii) In writing, that materials/parts being supplied pursuant to this Contract are, at the time of manufacture and shipment, produced by a qualified manufacturer listed, or approved for listing, on the applicable Qualified Products List. Certification shall accompany each shipment. This certification must also include the manufacturer's name for each item shipped to Buyer.

(B) If this contract requires assemblies or end items which contain any Government Standard Part specified on the Qualified Products List (as required by the controlling Government Specification), Seller agrees that such Government Standard Parts will be obtained only from such qualified sources or from authorized dealers/distributors. Seller will obtain and keep on file written evidence that such qualified items were, at the time of manufacture or shipment, produced by a qualified manufacturer listed, or approved for listing, on the applicable Qualified Products List. Seller will obtain and keep on file the names of such manufacturers.

## 7. SUBCONTRACTING

Seller agrees that no subcontract placed under this contract will provide for payment on a cost-plus-a-percentage-of-cost basis.

## 8. ADVANCE MANUFACTURE, ADVANCE SHIPMENTS, AND OVER SHIPMENTS

The goods covered by this contract will be delivered in accordance with the delivery schedule. Seller will not, without Buyer's prior written consent, manufacture in advance of the reasonable flow time required to accomplish delivery in accordance with such schedule, nor will Seller deliver any such supplies in advance of such schedule without Buyer's written consent. Buyer reserves the right to return, shipping charges collect, or to store at Seller's expense all such supplies received by Buyer substantially in advance of such schedule. No over shipments will be accepted except those resulting in good faith from conditions of loading, shipping, packing, or allowances in manufacturing processes, and in no case exceeding five percent of the quantity called for or the Forging Industry Association quantity tolerated.

## 9. REPRESENTATIONS AND CERTIFICATIONS

This Article includes representations and certifications that Buyer is required to obtain from Seller in order to comply with various provisions of its Government contracts. They have been stated in such a way as to allow Seller's acceptance of this contract to serve as representations and certifications that will present no bar to Buyer's award of this contract. If, upon receipt of a solicitation that precedes a contract that will incorporate these terms and conditions, Seller believes it is not prepared to make these representations and certifications, it will so notify Buyer as part of its response to the solicitation.

By the acceptance of this order, Seller makes the following representations and certifications:

### (A) Certification of Nonsegregated Facilities

(i) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that

are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(ii) Seller certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Seller agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(iii) Seller further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will -

(a) Obtain identical certifications from proposed subcontractors before the award of contracts under which the subcontractor will be subject to the Equal Opportunity clause;

(b) Retain the certifications in the files; and

(c) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods).

Notice to Proposed Subcontractors of Requirement for Certifications of Nonsegregated Facilities.

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

#### (B) Previous Contracts and Compliance Reports

Seller represents that:

(i) It has participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114.

(ii) It has filed all Compliance Reports.

(iii) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained.

#### (C) Affirmative Action Compliance (applicable if Seller has 50 or more employees)

Seller represents that:

(i) If required to do so by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), it has developed and has on file a written Affirmative Action Compliance Program at each of its establishments, or

(ii) In the event such a program does not presently exist, and this contract is for \$50,000 or more, that it will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this contract.

(D) Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

Seller certifies that, to the best of its knowledge and belief, it is not presently debarred, suspended, proposed for debarment, or ineligible from entering into contracts with the Executive Branch of the Federal Government.

## 10. SINGLE PROCESS INITIATIVES

When reading this Article, Seller should keep in mind that Buyer is a wholly owned subsidiary of The Boeing Company and is a part of Boeing's Space & Communications Group (SCG).

(A) Seller is encouraged to pursue and implement Single Process Initiatives (SPI) throughout the life of this contract. Seller may be relieved of requirements in this contract when those requirements are inconsistent with Government-approved SPI processes at Seller's facility. This relief will be granted under the following conditions:

(i) Boeing's customer (U.S. Air Force, U.S. Navy, U.S. Army, or NASA) must have been a party to the SPI approval at Seller's facility.

(ii) Seller must describe in writing the requirements of this contract that are inconsistent with the SPI process and must commit that there will be no adverse impact to performance, cost, quality, or schedule due to the substitution of Seller's approved SPI process.

(iii) There must be no specific technical reason that prevents the use of Seller's approved SPI process on work under this contract.

(iv) Cost savings realized from Seller's implementation of the SPI process will be shared with The Boeing Company in a manner similar to that used for determining the Government's share of cost savings.

(v) Seller's SPI must be submitted to Buyer for review as early as possible, preferably concurrent with Seller's submittal to its Government customer.

(vi) Seller's submittal to Buyer must include the following if available:

(a) A copy of the concept paper/block change proposal that was submitted to Seller's Government customers.

- (b) A list of the Boeing SCG locations and programs affected by the SPI.
- (c) A description of the equipment items affected.
- (d) Specific change language (was/now) being requested.
- (e) Seller's proposed consideration to Boeing for agreeing to the change.
- (f) A copy of the signed block change from, or MOA with, the Government.
- (g) Seller's regular Boeing point of contact.
- (h) Seller's point of contact for SPI technical issues.
- (i) Names of other prime contractors affected by the SPI.
- (j) A list of Government agencies that have approved the SPI.

(B) Boeing will consider all Government-approved SPI processes meeting the above conditions as applicable to all existing and follow-on contracts with Seller.

## 11. LIMITATION ON PAYMENTS

(A) Seller will include in each price redetermination or incentive price revision subcontract the substance of the following clauses, whichever is applicable, in effect on the date of this contract. In each of the following clauses, "Contractor" shall mean Seller.

- (i) FAR 52.216-5 Price Redetermination - Prospective, paragraphs (h) and (i), modified as required by subparagraph (i)(1);
- (ii) FAR 52.216-6 Price Redetermination - Retroactive, paragraphs (g) and (h), modified as required by subparagraph (h)(1);
- (iii) FAR 52.216-16 Incentive Price Revision - Firm Target, paragraphs (g) and (h), modified as required by subparagraph (h)(1);
- (iv) FAR 52.216-17 Incentive Price Revision - Successive Targets, paragraphs (i) and (j), modified as required by subparagraph (j)(1).

(B) Seller will include the substance of this Article in each cost-reimbursement subcontract, modified to reflect the subcontractor's position as seller.

## 12. AUDIT

(A) Until three years after final payment, Seller will maintain, and Buyer will have the right to examine and audit, books, records, documents, and accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract.

(B) Before making each payment under this contract, Buyer may require Seller to submit vouchers, receipts, payroll information, and labor and material releases.