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The Boeing Company
Terms and Conditions
Government Prime Contract HQ0006-01-C-0001
NMD PROGRAM

SPECIAL U.S. GOVERNMENT PROVISIONS:

The following Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses are incorporated herein by reference. In such clauses, unless otherwise specifically stated, the term "Contractor" means Seller except in the term "prime contractor", "subcontractor" means Seller's subcontractor, "Contract" means this order, except in the term "prime contract" and both "Contracting Officer" and "Government" mean Buyer except in the terms "Government Property", "Government-Furnished Information", "Government-Owned Property", and "Former Government Surplus Property", or as otherwise indicated.

EXCEPT AS OTHERWISE NOTED, THE FOLLOWING FAR AND DFAR CLAUSES APPLY TO ALL PURCHASE CONTRACTS UNDER DEPARTMENT OF DEFENSE (DoD) CONTRACTS.

FAR CONTRACT CLAUSES:

FAR CLAUSES APPLICABLE TO THIS ORDER IRRESPECTIVE OF THE AMOUNT OF THE ORDER (Except as noted)

52.203-5 (Apr 84) COVENANT AGAINST CONTINGENT FEES

52.203-6 (Jul 95) RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT. This clause applies only if this contract exceeds \$100,000.

52.203-7 (Jul 95) ANTI-KICKBACK PROCEDURES (excluding subparagraph (c)(1)). 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 (Jan 97) CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY. 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 (Jan 97) PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY. 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.

52.203-12 (Jun 97) LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (*Applies to orders over \$100,000. (In (c)(1), "Contractor who requests or receives from an agency a Federal contract shall file with that agency" is changed to "The Seller shall file with the Buyer". In (c)(2), "The Contractor shall file" is changed to "The Seller shall file with the Buyer". In (c)(3), "Contractor" is changed to "Seller".)*)

52.204-2 (Aug 96) SECURITY REQUIREMENTS (*Applies if access to classified information is required. "Government" and "Contracting Officer" are not changed.*)

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52.209-6 (Jul 95) PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED OR PROPOSED FOR DEBARMENT.

52.211-5 (Aug 00) MATERIAL REQUIREMENTS. Any notice will be given to Buyer rather than the Contracting Officer.

52.211-15 (Sep 90) DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (*Applies to rated orders certified for national defense use. In such event Seller is required to follow all the provisions of the Defense Priorities and Allocations System regulation (15CFR700)*)

52.215-2 (Jun 99) AUDITS AND RECORDS - NEGOTIATION

52.215-10 (Oct 97) PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA. *Applies to orders where a Certificate of Current Cost or Pricing Data has been executed by Seller. "Contracting Officer" means "Contracting Officer or Buyer." In paragraph (c)(2)(i)(A) delete "to the Contracting Officer." In paragraph (c)(2)(ii)(B) "Government" means "Government or Buyer." In addition to any other remedies provided by law or under this order, if Buyer is subjected to any liabilities the result of Seller's or its lower tier subcontractor's failure to comply with the requirements of these provisions, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense (excluding profit), resulting in such failure.*

52.215-12 (Oct 97) SUBCONTRACTOR COST OR PRICING DATA. *Applies to orders where a Certificate of Current Cost or Pricing Data has been executed by Seller. In addition to any other remedies provided by law or under this order, if Buyer is subjected to any liabilities the result of Seller's or its lower tier subcontractor's failure to comply with the requirements of these provisions, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense (excluding profit), resulting in such failure.*

52.215-14 (Oct 97) INTEGRITY OF UNIT PRICES (including ALT. 1). 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.)

52.215-15 (Dec 98) PENSION ADJUSTMENTS AND ASSET REVERSIONS. This Clause applies to this contract if it meets the requirements of FAR 15.408(g).

52.215-18 (Oct 97) REVERSION OR ADJUSTMENT OF PLANS FOR POST RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS. This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

52.215-19 (Oct 1997) NOTIFICATION OF OWNERSHIP CHANGES. This Clause applies to this contract if it meets the requirements of FAR 15.408(k).

52.215-21 (Oct 97) REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS. The term "Contracting Officer" shall mean Buyer's Purchasing Representative.

52.219-8 (Oct 00) UTILIZATION OF SMALL BUSINESS CONCERNS

52.222-1 (Feb 97) NOTICE TO THE GOVERNMENT OF LABOR DISPUTES

52.222-2 (Jul 90) PAYMENT FOR OVERTIME PREMIUM. Insert "0" in paragraph (a).

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52.222-4 (Sep 00) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT-OVERTIME COMPENSATION. This clause applies if the subcontract exceeds \$100,000. Subcontractor agrees to include these provisions in any lower-tier subcontracts.

52.222-20 (Dec 96) WALSH-HEALY PUBLIC CONTRACTS ACT. This provision applies if the subcontract involves performance under CLINs 0201 or 0203 of the Prime contract and if the manufacture or furnishing of materials, supplies, articles or equipment will be in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healy Public Contracts Act, as amended (41 U.S.C.35-45).

52.222-21 (Feb 99) PROHIBITION OF SEGREGATED FACILITIES.

52.222-26 (Feb 99) EQUAL OPPORTUNITY (subparagraph (b)(1) through (11))

52.222-35 (Apr 98) AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

52.222-36 (Jun 98) AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (*Do not change "Contracting Officer."*)

52.222-37 (Jan 99) EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

52.223-3 (Jan 97) HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (*"Government" means Government and Buyer in paragraphs (f) and (h). In paragraph (h)(3) "The Government is not" is changed to "Neither the Government nor Buyer is".*)

52.223-7 (Jan 97) NOTICE OF RADIOACTIVE MATERIALS (*In paragraph (a) insert "one hundred twenty (120)" before "days".*)

52.223-11 (Jun 97) OZONE-DELETING SUBSTANCES.

52.223-14 (Oct 96) TOXIC CHEMICAL RELEASE REPORTING (*Applies to competitively awarded orders if the Seller has a SIC Code of major groups 20 through 39. "Delete paragraph (e)."*)

52.225-8 (Feb 00) DUTY-FREE ENTRY. (Applies if supplies are imported into the customs territory of the U.S. "Contractor" means "Subcontractor". Change "20 days" to "30 days" in paragraph (c)(1), and change "10 days" to "25 days" in paragraph (c)(2). "Government" means "Government" in paragraphs (c), (d) and (e). "Contracting Officer" means "Contracting Officer" except in paragraph (c)(1) where "Contracting Officer" shall mean Buyer's Purchasing Representative.)

52.225-13 (Jul 00) RESTRICTIONS ON CERTAIN FOREIGN PURCHASES.

52.227- 1 (Jul 95) AUTHORIZATION AND CONSENT; ALTERNATE I ((Apr 84) (Alt 1 applies to work performed in support of Prime Contract Line Item Numbers (CLINs) 0101, 0103, 0105, 0107 only).

52.227-2 (Aug 96) NOTICE AND ASSISTANCE REGARDING PATENT AND COPY RIGHT INFRINGEMENT

52.227-10 (Apr 84) FILING OF PATENT APPLICATIONS - CLASSIFIED SUBJECT MATTER

52.227-12 (Jan 97) PATENT RIGHTS - RETENTION BY THE CONTRACTOR (LONG FORM)

52.230-2 (Apr 98) COST ACCOUNTING STANDARDS (*Applies if Seller is subject to Cost Accounting Standards (CAS). Delete paragraph (b).)*

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52.230-6 (Nov 99) ADMINISTRATION OF COST ACCOUNTING STANDARDS (*Applies if Seller is subject to Cost Accounting Standards (CAS). Add "Buyer and the" before "Contracting Officer" in paragraph (e).*)

52.234-1 (Dec 94) INDUSTRIAL RESOURCES DEVELOPMENT UNDER DEFENSE PRODUCTION ACT TITLE III. (In para. (b), Contractor shall mean "Subcontractor" and "Contracting Officer" shall mean Buyer's Purchasing Representative.)

52.237-2 (Apr 84) PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION. ("Contractor" shall mean "Subcontractor," "Contracting Officer" shall mean "Buyer's Purchasing Representative.")

52.242-5 (Aug 89) with Alternate 1 (Apr 85) STOP WORK ORDERS

52.244-5 (Dec 96) COMPETITION IN SUBCONTRACTING. ("Contractor" shall mean "Subcontractor," "Subcontractor" shall mean "lower-tier subcontractor,")

52.244-6 (Oct 98) SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS

52.245-2 (Dec 89) GOVERNMENT PROPERTY (FIXED PRICE CONTRACTS)

52.245-18 (Feb 93) SPECIAL TEST EQUIPMENT (*Applies if test equipment is acquired or furnished by the Government and to be retained for use by the Seller. Change "30 days" to "45 days" in paragraph (b) and (c).*)

52.246-25 (Feb 97) LIMITATION OF LIABILITY--SERVICES. (*Applies to orders that exceed \$25,000*)

52.247-63 (Jan 97) PREFERENCE FOR U.S. FLAG AIR CARRIERS

52.249-6 (Sep 96) TERMINATION (COST-REIMBURSEMENT) (*Paragraphs (i) and (m) are deleted. In paragraph (c)(8) "Contracting Officer" means "Contracting Officer or Buyer" and "Government or Buyer" respectively; "to the Government" is deleted in paragraph (c)(6); "1 year" and "1-year" are changed to "6 months" and "6-month" in paragraph (f); and in paragraphs (d) and (i) the term "for the convenience of the Government" is changed to "for convenience". In paragraph (d) change "120 day period" to "90 day period"*)

52.251-1 (Apr 84) GOVERNMENT SUPPLY SOURCES

DFARS CONTRACT CLAUSES:

252.204-7000 (Dec 91) DISCLOSURE OF INFORMATION

252.204-7005 (Aug 99) ORAL ATTESTATION OF SECURITY REQUIREMENTS.

252.208-7000 (Dec 91) INTENT TO FURNISH PRECIOUS METALS AS GOVERNMENT-FURNISHED MATERIAL (*Applies if item purchase contains precious metals. "Contractor" is not changed in paragraph (d).*)

252.209-7000 (Nov 95) ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE (INF) TREATY (*Applies if the order is over \$100,000*)

252.211-7000 (Dec 91) ACQUISITION STREAMLINING (*Applies if the order exceeds \$1,000,000, unless otherwise noted*)

252.215-7000 (Dec 91) PRICING ADJUSTMENTS (*Applies on orders exceeding \$500,000 when FAR 52.215-11, -12, or -13 is applicable. "Subcontractor" is not changed.*)

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252.219-7004 (Jun 97) SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (*Applies If supplier is a large business. "Contract" is not changed in paragraph (f).*)

252.223-7001 (Dec 91) HAZARD WARNING LABELS. This clause applies only if Seller delivers hazardous material under this contract.

252.223-7002 (May 94) SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (*Applies on orders when explosives are involved in the material process. "Government" means Government or Buyer in paragraph (e), the first time it appears in (g)(1)(i), and in (g) (3). "Government" means Government or Buyer in paragraph (c)(3), (c)(4), (c)(5), (e)(1), (e)(1)(ii), (f)(1), (f)(2), and the second time it appears in (g)(1)(i). "Contracting Officer" means Contracting Officer and Buyer in paragraphs (d)(1), (d)(3), and (g)(4). "Contracting Officer" means Contracting Officer or Buyer in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), and (d)(2).*)

252-223-7006 (Apr 93) PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS. This clause applies to this contract if it requires, may require, or permits Seller to treat or dispose of non-DoD-owned toxic or hazardous materials as defined in this clause.

252-223-7007 (Sep 99) SAFEGUARDING SENSITIVE CONVENTIONAL ARMS, AMMUNITION, AND EXPLOSIVES.

252.223-7003 (Dec 91) CHANGES IN PLACE OF PERFORMANCE - AMMUNITION AND EXPLOSIVES

252.225-7009 (Mar 98) DUTY-FREE ENTRY - Qualifying Country Supplies (End Products and Components).

252.225-7014 (Mar 98) and Alt. 1 (Mar 98) PREFERENCE FOR DOMESTIC SPECIALTY METALS

252.225-7012 (May 99) PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES.

252.225-7016 (Aug 98) RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (*Applies when an item contains a ball or roller bearing.*)

252.225-7022 (Jun 97) RESTRICTION ON ACQUISITION OF POLYACRYLONITRILE (PAN) BASED CARBON FIBER. "Contracting Officer" means Buyer.

252.225-7026 (Jun 00) REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (*Applicable if the order exceeds \$100,000. The prime contract number is on the faceplate of this Order. In paragraph (d) "30 days" is changed to "20 days".*)

252.227-7013 (Nov 95) RIGHTS IN TECHNICAL DATA - NONCOMMERCIAL ITEMS. This clause applies only if the delivery of data is required for noncommercial items under this contract.

252.227-7014 (Jun 95) RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION. This clause applies only if the delivery of noncommercial computer software or noncommercial computer documentation may be originated, developed or delivered under this contract.

252.227-7016 (Jun 95) RIGHTS IN BID OR PROPOSAL INFORMATION.

252.227-7019 (Jun 95) VALIDATION OF ASSERTED RESTRICTIONS - COMPUTER SOFTWARE. This clause applies only if computer software may be originated, developed, or delivered under this contract.

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252.227-7025 (Jun 95) LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS.

252.227-7027 (Apr 98) DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE. This clause applies only if technical data or computer software may be generated as part of the performance of this contract.

252.227-7030 (Mar 00) TECHNICAL DATA - WITHHOLDING OF PAYMENT. "Government" and "Contracting Officer" mean Buyer. This clause applies only if the delivery of data is required by this contract.

252.227-7036 (Jan 97) DECLARATION OF TECHNICAL DATA CONFORMITY. This clause applies only if the delivery of data is required by this contract.

252.227-7037 (Sep 99) VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA. This clause applies only if the delivery of technical data is required by this contract.

252.228-7005 (Dec 91) ACCIDENT REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES

252.231-7000 (Dec 91) SUPPLEMENTAL COST PRINCIPLES

252.234-7001 (Mar 98) EARNED VALUE MANAGEMENT SYSTEM. This clause is applicable only if this contract states that the Earned Value Management System criteria applies to Seller. (insert the following companies in paragraph (f) of the clause: Northrop Grumman; Raytheon Company; Teledyne Brown Engineering; TRW Strategic Systems Division; United Technologies; and Xon Tech, Inc.)

252.235-7003 (Dec 91) FREQUENCY AUTHORIZATION (*Applies on orders if a radio frequency authorization is required.*)

252.244-7000 (Mar 00) SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS)

252.245-7001 (May 94) REPORTS OF GOVERNMENT PROPERTY

252.247-7023 (Mar 00) TRANSPORTATION OF SUPPLIES BY SEA (*Applicable to orders over \$100,000. "Contract" is not changed in paragraph (a)(6)(i). In the first sentence of paragraph (c) "45 days" is changed to "60 days".*)

252.247-7024 (Mar 00) NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA. "Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" mean Buyer. This clause does not apply to the procurement of commercial items or commercial components.

252.249-7002 (Dec 96) NOTIFICATION OF PROPOSED PROGRAM TERMINATION OR REDUCTION. This clause applies only if this contract is for \$500,000 or more.

252.251-7000 (May 95) ORDERING FROM GOVERNMENT SUPPLY SOURCES

ADDITIONAL SPECIAL PROVISIONS:

A. PUBLIC RELEASE OF INFORMATION. All public information materials prepared by Seller shall be submitted to Buyer for clearance prior to release. These materials include, but are not limited to, technical papers and responses to news queries which relate to work under this order. However, once work has been cleared for public release, it need not be cleared again for later use. All materials to be cleared must be sent to Buyer.

Seller shall submit the material proposed for release to the above address via a letter of transmittal setting forth: 1) to whom the material is to be released; 2) the desired date for public release; 3) a statement that the material has been approved by Seller officials for public release; 4) the order number and prime contract number. Three copies of each item shall be submitted at least two months in advance of the proposed release date. Final approval for release or disclosure of the material cannot be given on the basis of abstracts; outlines or rough drafts will not be cleared. Materials submitted to Buyer for release purposes shall be void of all Seller logos or other attributions to the Seller.

B. ORGANIZATIONAL CONFLICT OF INTEREST. Purpose. This clause is to aid in ensuring that: Seller's scientific objectivity and judgment are not biased because of present or planned interests (financial, contractual, organizational or otherwise) which relate to work under this order; Seller does not obtain an unfair competitive advantage by virtue of its access to non-public Government information regarding Government program plans and actual or anticipated resources; and Seller does not obtain any unfair competitive advantage by virtue of its access to proprietary information belonging to others. Restrictions described herein shall apply to performance or participation by Seller and any of its affiliates or their successors in interest in the activities covered by this clause as subcontractor, co-sponsor, joint venture, consultant or in any similar capacity. Information furnished voluntarily by the owner without limitations on its use, or which is available without restrictions from other sources, is not considered proprietary.

1. Certification Restriction: the Seller shall be restricted from performing validation, verification, accreditation, or certification of any products developed or delivered under this contract. Additionally the Seller shall not serve as a software independent validation and verification (IV&V) contactor for any software developed or delivered under this contract.
2. Access To & Use Of Government Information. If in the performance of this order, Seller obtains access to information such as plans, policies, reports, studies, financial plans, or data which has not been released or otherwise made available to the public, Seller agrees that without prior written approval of Buyer it shall not use such information for any private purpose unless the information has been released or otherwise made available to the public; compete for work, other than the Boeing contract, based on such information after the completion of this order, or until such information is released or otherwise made available to the public, whichever occurs first; submit an unsolicited proposal to the Government which is based on such information after such information is released or otherwise made available to the public; or release such information unless such information has previously been released or otherwise made available to the public by the Government.
3. Access To & Protection Of Proprietary Information. Seller agrees that, to the extent it receives or is given access to proprietary data, trade secrets, or other confidential or privileged technical, business, or financial information (hereinafter referred to as "proprietary data") under this order, it shall treat such information in accordance with any restrictions imposed on such information. Seller further agrees to enter into a written agreement for the protection of the proprietary data of others and to exercise diligent effort to protect such proprietary data from unauthorized use or

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disclosure. In addition, Seller shall obtain from each employee who has access to proprietary data under this order a written agreement which shall in substance provide that such employee shall not, during his/her employment by Seller or thereafter, disclose to others or use for their benefit proprietary data received in connection with work under this order. Seller will educate its employees regarding the philosophy of Part 9.505-4 of the Federal Acquisition Regulation so that they will not use or disclose proprietary information or data generated or acquired in the performance of this order except as provided herein.

4. Subcontracts: The Seller shall include this or substantially the same clause, including this paragraph, in consulting agreements and subcontracts at all tiers. The terms "Contract", "Contractor", and "Contracting Officer" will be appropriately modified to preserve the Government's rights.
5. Disclosures. If Seller discovers an organizational conflict of interest or potential conflict of interest after award, a prompt and full disclosure shall be made in writing to the Buyer. This disclosure shall include a description of the action the Seller has taken or proposes to take in order to avoid or mitigate such conflicts.
6. Remedies & Waiver. For breach of any of the above restrictions or for non-disclosure or misrepresentation of any relevant facts required to be disclosed concerning this order, Buyer may terminate this order for default, disqualify Seller for subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this order. If, however, in compliance with this clause, the Seller discovers and promptly reports an actual or potential organizational conflict of interest subsequent to award of the order, Buyer may terminate this order for convenience if such termination is determined to be in Buyer's best interest. Seller recognizes that this clause has potential effects which will survive performance of this order and that it is impossible to foresee each circumstance to which it might be applied in the future. Accordingly, Seller may at any time seek a waiver from the Boeing Director of Supplier Management and Procurement, via Buyer by submitting a full written description of requested waiver and reasons in support thereof.
7. Modifications. Prior to order modification, when the statement of work is changed to add new work or the period of performance is significantly increased, Buyer may require Seller to submit to the Government through Buyer either an organizational conflict of interest disclosure or an update of the previously submitted disclosure or representation.

C. ENABLING CLAUSE FOR BOEING INTERFACE SUPPORT. It is anticipated that during the performance of this order, Seller may be required to support meetings with other Sellers and other Government agencies. Appropriate organizational conflict of interest agreements will be negotiated by the Seller as needed to protect the rights of Seller and Buyer. This agreement is not intended to establish privity of contract between Seller and the Government, nor is it intended to relieve Seller of any of its responsibility to manage its subcontracts effectively. Personnel from other Sellers or from any Government agency are not authorized to direct Seller in any way.

D. INSURANCE. Seller shall maintain Workmen's Compensation and all occupational disease insurance as required by state law. Seller's liability insurance (including occupational disease not covered by Workmen's Compensation) shall provide for a minimum of \$100,000 per accident. Seller's comprehensive general liability insurance shall provide for a minimum of \$500,000 per occurrence. Seller's automobile liability insurance shall provide for a minimum of \$200,000 per person; \$500,000 per accident; and \$20,000 for property damage. In the event that other coverages of higher minimum amounts are required by any Treaty or DoD Post, Base Camp, or Station regulations, such other coverage(s) or higher minimum amount(s) shall apply to that installation.

- E. IDENTIFICATION OF TECHNICAL DATA, COMPUTER SOFTWARE & SOFTWARE DOCUMENTATION TO BE DELIVERED WITH LESS THAN UNLIMITED RIGHTS.** Except for data and software specifically identified in this order as being delivered with less than unlimited rights, all technical data, computer software, and software documentation required to be delivered under this order will be provided with unlimited rights.
- F. HARDWARE, SOFTWARE, GOVERNMENT PROPERTY & END ITEMS.** For any hardware, software, Government property, and end items delivered under this order or shipped to Buyer or direct to the Government, use best commercial practices in packing the items to ensure they are adequately protected during shipment and handling, unless specifically instructed otherwise in this order.
- G. TRAVEL & TRAVEL COSTS.** Costs for transportation may be based on mileage rates, actual costs incurred, or on a combination thereof, provided the method used results in a reasonable charge. Costs for lodging, meals, and incidental expenses may be based on per diem, actual expenses, or a combination thereof, provided the method used results in a reasonable charge. Except as provided in FAR 31.205-46(a)(3), costs incurred for lodging, meals, and incidental expenses shall be considered reasonable and allowable to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in: Federal Travel Regulations, prescribed by the General Services Administration for travel in the conterminous 48 United States; Joint Travel Regulations, Volume 2, DoD Civilian Personnel (Appendix A), for travel in Alaska, Hawaii, and territories and possessions of the United States; and Standardized Regulations (Government Civilians, Foreign Areas) Section 925, prescribed by the Department of State, for all other areas. The maximum per diem rates referenced above generally would not constitute a reasonable daily charge when no lodging costs are incurred, and/or on partial travel days (appropriate downward adjustments from the maximum per diem rates would normally be required under these circumstances). Costs shall be allowable only if the following information is documented: date and place of the expense; purpose of the trip; and name of the person on the trip and that person's title. Travel costs directly attributable to specific contract performance are allowable and may be charged to the contract under FAR 31.202. Airfare and rail costs in excess of the lowest customary standard, coach or equivalent fare offered during normal business hours are unallowable, except where such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler, or are not reasonably available to meet mission requirements. The costs of travel by Seller-owned, leased or chartered aircraft and automobiles will be governed in accordance with FAR 31.205-46(e) and (f).

Applicable to labor hour support contracts only:

Seller shall obtain prior written authorization for all travel from the responsible Integrated Product Team Leader or Cost Account Manager where expenses will be invoiced. The Seller shall furnish copies of approved travel authorization upon request of The Boeing Company. Travel expenses without prior written approval shall be deemed unallowable and not paid, or if paid will be debited back to The Boeing Company.

- H. YEAR 2000 COMPLIANCE.** Seller represents that any hardware, software, and firmware product delivered under this order shall be able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000) and leap year calculations to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it. The remedies available to Buyer under this clause shall include repair or replacement of any non-compliant product discovered and made known to Seller in writing.

Nothing in this clause shall be construed to limit any rights or remedies Buyer may otherwise have under this order with respect to defects other than Year 2000 performance.

I. FIRST TIER SUBCONTRACTS. Seller agrees, upon request, to render to Buyer a report listing all of Seller's first tier subcontracts, as defined in FAR 52.244-2, paragraph (a), relating to this order. This report shall include for each subcontract, the name of the supplier, a brief statement of the general scope of work contemplated thereunder, the estimated cost or price, the form of contract and the current status and progress thereof. Seller further agrees to furnish, upon request of the Buyer, a copy of all such subcontracts.

J. EXPORT OF TECHNICAL DATA AND DEFENSE SERVICES.

1. In the performance of the contract Statement of Work, the Subcontractor will be expected to support the Buyer in its activities with foreign entities and/or persons. This activity could include the export of defense services and/or technical data, including classified information as long as that information does not disclose the details of design, development, production or manufacture of any defense article. When directed in writing from Buyer, the Subcontractor shall export on behalf of Buyer technical data to a named foreign entity or persons in the manner and under the conditions provided for in the direction. When, in the performance of this contract, the need arises for the Subcontractor to export defense services, the Subcontractor shall export those services subject to the applicable requirements of the U.S. export control laws and regulations. Nothing in this clause shall affect the protection or allocation of rights to technical data between Buyer or any Subcontractors as provided for in this contract or subcontract hereunder; nor shall this clause affect the scope of any license otherwise granted to the Government or the recipient of the transferred or disclosed technical data.
2. The subcontractor shall not export any technical data and/or defense services without the prior notification and approval of Buyer.
3. The Subcontractor shall include this clause in all subcontracts at any tier, the performance of which may require the export of technical data and/or defense services, and the Buyer may direct an export subject to the limitations stated herein.

K. COMPLIANCE WITH ENVIRONMENTAL SAFETY AND HEALTH PROGRAM PROTECTION

The Contractor and Subcontractors shall maintain accurate accident and injury/illness records for the NMD System. For Contractor or Subcontractor work performed on Government installations, the Contractor shall notify DoD installation Commander, or designee, immediately of all accidents, injuries, environmental illness, or other unusual occurrence.

1. The Contractor shall conduct accident investigations and provide documentation to the host installation.
2. On an annual basis, the Contractor shall provide OSHA 200 logs prepared by the Contractor or Subcontractors for the NMD Program and copies of all accident investigations to Boeing along with a listing of all other accidents/incidents related to this contract.

L. GOVERNMENT PROPERTY

1. **Property on Existing Contracts.** The Contractor or its Subcontractors are authorized use of Government Property from the following contracts on a no cost (i.e., without assessment of rental charges), non-interference basis:

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<u>Contract Number</u>	<u>Program or Effort</u>	<u>Remarks</u>
HQ0006-98-C-0003	NMD/LSI	NMD Basic Contract
HQ0006-95-C-0018	*BMC3/SE&I	TRW Subcontract
DASG60-92-C-0184	GBR-P	Raytheon Subcontract
DASG60-86-C-0014	PLV	LMMS Subcontract
DASG60-98-C-0011	PLV-X	LMMS Subcontract

(Remainder of list TBD – will contain list of contracts for which permission has been granted to use the Government property.)

* Refers to Government Property used for CLIN 0007 (BMC3).

2. **Models and Simulations.** The Contractor has requested the use of the following software models and simulations in the performance of this contract. To the extent that approval has not been received from the cognizant activity as of the award of this contract, BMDO will work with the Contractor to obtain such approval. Given the nature of models and simulations, they are being furnished on an “as is” and “as available from the cognizant activity” basis.

(List of models and simulations TBD)

M. SEGREGATION OF COSTS (applicable only to cost-reimbursement, flexibly-priced (e.g. fixed-price incentive) or letter subcontracts, involving subcontract line items funded by both RDT&E and Procurement appropriations)

The prime Government contract contains items funded by Research, Development, Test & Evaluation (RDT&E) appropriations and Procurement appropriations. Separate Contract Line Item Numbers (CLINs) and Subordinate Contract Work Breakdown Structure (CWBS) designations apply to the work funded by RDT&E and work funded by Procurement appropriations. The Contractor shall segregate costs for the RDT&E-funded CLINs from the Procurement-funded CLINs. The Contractor shall emphasize to its direct labor employees that are likely to charge time under this contract the fact that work is funded from different appropriations and that separate work accounting charge numbers have been established and are to be used pursuant to the Contractor’s established labor charging and accounting systems. Similar action shall be taken to emphasize the need for segregating costs to subcontractors holding subcontracts involving both RDT&E-funded and CLINs and Procurement-funded CLINs.

N. SURVEILLANCE AND WRITTEN TECHNICAL DIRECTION

1. The work to be performed by the Seller under this Order is subject to surveillance and written technical direction from the Buyer under the conditions set out herein. Technical direction is defined as a directive to the Seller within the definitions and requirements of the Statement of Work hereof which approves approaches, solutions, designs, or refinements; fills in details or otherwise completes the general description of work or information items; shifts emphasis among work areas or tasks; or otherwise furnishes guidance to the Seller. Technical direction includes the process of conducting inquiries, requesting studies, or transmitting information or advice by the Buyer regarding matters within the definitions and requirements of the Statement of Work. Technical direction and management surveillance shall not impose tasks or requirements upon the Seller additional to or different from the general tasks and requirements stated in the Statement of Work hereof.

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Technical direction to be valid:

- Must be issued in writing consistent with the general scope of the work set forth in this Order;
 - Shall not commit the Buyer to any adjustment of the price or other provisions of this Order; and
 - Shall be contained on Buyer's Form and signed by an authorized member of Buyer's Engineering staff.
2. In the event any such technical direction is interpreted by Seller to fall within the clause hereof entitled "Changes" the Seller shall not implement such direction, but shall notify the Buyer in writing of such interpretation within ten working days after the receipt of such direction. Such notice shall (i) include the reasons upon which the Seller bases its belief that the technical direction falls within the purview of the "Changes" clause; and (ii) include the Seller's best estimate as to revision in price, performance time, delivery schedules and other contractual provisions that would result from implementing the technical direction.

If, after reviewing the information presented pursuant to Paragraph 2 above, the Buyer is of the opinion that such direction is within the purview of the "Changes" clause and considers such change desirable, unilateral direction to proceed pursuant to the "Changes" clause shall be issued by duly executed Change Notice to this Order. If Buyer determines that such direction is technical direction authorized by this clause, Seller will be directed by Buyer to proceed with the implementation of such technical direction.

In the event the Buyer determines that it is necessary to avoid a delay in performance of this Order, the Seller may be directed, in writing, to proceed with the implementation of the technical direction pending receipt of the information to be submitted under Paragraph 2 above. Should the Buyer later determine that change direction is appropriate, written direction pursuant to the "Changes" clause hereof will be issued.

3. Failure of the Buyer and Seller to agree on whether such direction is technical direction or a Change within the purview of the "Changes" clause shall be a dispute concerning a question of fact within the meaning of the clause hereof entitled "Disputes."

The procedure set out in this clause is the only means authorized to give technical direction to the Seller under this Order. Any action taken by the Seller in response to any technical direction given by any other means or by any person other than the cognizant Buyer shall be at the Seller's own risk.

O. THE FOLLOWING "DISPUTES" PROVISION APPLIES ONLY TO THE CLAUSES OF THIS CONTRACT LISTED BELOW:

- PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA
 - PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS
 - COST ACCOUNTING STANDARDS
 - DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES
1. Any dispute that arises under or is related to this contract concerning the above named clauses that cannot be settled by mutual agreement of the parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.

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2. If a decision arising under the prime contract is made by the Contracting Officer and such decision is also related to the above named clauses of this order, said decision, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller with respect to such decision insofar as it relates to this order; provided, however, that if Seller is adversely affected by any such decision made by the Contracting Officer, and if Buyer elects not to appeal such decision pursuant to the "Disputes" clause of the prime contract, Buyer shall promptly notify Seller. If Seller thereafter timely requests Buyer to appeal such decision, Buyer shall do so. If Buyer appeals such decision, whether at its election or at Seller's request, any decision upon such an appeal, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller under this order with respect to such decision insofar as it relates to this order.
3. If any such appeal is denied or otherwise decided adversely to Seller's interest, or if Seller is otherwise adversely affected by any decision made by any representative of the Government on any decision arising under the prime contract which is also related to this order, from which an appeal under the "Disputes" clause in the prime contract is not available, said decision, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller with respect to such decision insofar as it relates to this order; provided, however, that if Seller is adversely affected by any such decision, and if Buyer elects not to bring suit against the Government with respect to such decision, Buyer shall notify Seller with reasonable promptness. If Seller timely requests Buyer to bring suit against the Government, Buyer shall do so. If Buyer brings suit against the Government with respect to any such decision, whether at its election or at Seller's request, a final judgment in any such suit, if binding upon Buyer under the prime contract shall in turn be binding upon Seller and Buyer under this order with respect to the decision insofar as it relates to this order.
4. If necessary for jurisdiction under the Contract Disputes Act, Buyer shall certify Seller's claim and proceed with the appeal only if Buyer is satisfied that the Seller's claim is in good faith, that the supporting data are accurate and complete to the best of its knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Buyer believes the Government is liable. Buyer's position on whether or not it is satisfied shall be reasonable and shall not be used to arbitrarily deny Seller certification. Seller shall indemnify Buyer against any liability incurred as a result of acting hereunder at Seller's request, including furnishing such certification.
5. If any such appeal or suit is taken or brought by Buyer, whether at its election or at Seller's request, Seller shall assist Buyer in its prosecution thereof in every reasonable manner and Seller shall be afforded reasonable opportunity to participate in the prosecution thereof to the extent Seller's interest may be affected. To the extent requested by Buyer, Seller shall prosecute for Buyer any appeal or suit taken or brought at Seller's request and, in such event, Buyer shall assist Seller in every reasonable manner. All costs and expenses incurred by Seller and Buyer in prosecuting any appeal or suit taken or brought at Seller's request shall be paid by Seller. Where possible, Buyer shall in good faith consult with Seller concerning the presentation to the Contracting Officer or other cognizant representatives of the Government of the matters referred to in Paragraphs 2 and 3 above to the extent they may affect Seller's interest.
6. If as a result of any decision or judgment which is binding upon Seller and Buyer, as above provided, Buyer is unable to obtain reimbursement from the Government under the prime contract for, or is required to refund or credit to the Government, any amount with respect to any item of cost or fee for which Buyer has reimbursed Seller, Seller shall, on demand, promptly repay such amount to Buyer.

7. The rights and obligations described herein shall survive completion of and final payment under this order.

P. PLANT RULES AND GOVERNMENT CLEARANCE

Employees and agents of Buyer and Seller will, while on premises of the other, comply with all plant rules and regulations, including, where required by Government regulations, submission of appropriate clearance from the U.S. Department of Defense or other concerned federal agency.

For contractor or subcontractor work performed on Government installations, the Contractor shall comply with all applicable DoD, Federal, State, local and host installation regulations and requirements relating to the safety and health of contractor/subcontractor employees and the host installation.

Q. PRIME CONTRACT FLOWDOWN PROVISIONS

The contract may be amended to the extent necessary to incorporate additional provisions required to meet Buyer's obligations under the prime contract to which this contract is charged.

R. ETHICAL BUSINESS CONDUCT

Seller will ensure that its employees performing under this contract comply with Boeing's Ethical Business Conduct Guidelines. The Guidelines are available at the following Internet address:

<http://www.boeing.com/companyoffices/aboutus/ethics/epolicy.htm>

S. FOREIGN SUPPLIER REPORTING

In accordance with the Offset Credits article of Buyer's General Provisions, Seller shall:

1. Immediately notify Buyer's authorized purchasing representative of potential foreign procurements where a request for quotation has been issued to a foreign supplier or a proposal has been received from a foreign supplier.
2. Submit a quarterly report identifying awards and pending awards to foreign suppliers.
3. Include the following information for each award and pending award in the quarterly report:
 - a. The Boeing Company's purchase contract number and a point of contact within your company (name and telephone number)
 - b. Name of foreign company
 - c. Address of foreign company
 - d. Foreign company point of contact (name, telephone, and FAX number)
 - e. Part number(s) or description of product(s) and service(s) to be provided
 - f. Your order number
 - g. Anticipated award date (upon receipt of offer or issuance of solicitation to foreign firm)
 - h. Estimated US dollar value for awarded contracts
 - i. Date of award (if a contract change, indicate change number, and date change was issued)
 - j. Actual US dollar value of the awarded contracts
 - k. Quantity and unit of measure
 - l. Comments, if any
4. Negative reports are required.

T. FINANCIAL INFORMATION

Applies if the order exceeds \$100,000 and extends for more than one year.

If requested, supplier shall provide financial data, on a quarterly basis, or as requested to the Boeing Credit Office for credit and financial condition reviews. Said data shall include but not be limited to balance sheets, schedule of accounts payable and receivable, major lines of credit, creditors, income statements (profit and loss), cash flow statements, firm backlog, and headcount. Copies of such data are to be made available within 72 hours of any written request by Boeing. All such information shall be treated as confidential in accordance with Boeing Procedure IB-ACG-200, "Information Protection."

Applies unless a cost plus award fee order is placed:

U. COMMUNICATION WITH BOEING CUSTOMER

1. Boeing shall be solely responsible for all liaison, coordination, status requests, and other communication with, and deliveries to, the Boeing Customer (*i.e.*, the Ballistic Missile Defense Organization, the BMDO NMD supporting contractors, and the U.S. Government "user" commands are referred to herein as the "Boeing Customer"), concerning the NMD prime contract (HQ0006-01-C-0001), this subcontract, and any related lower-tier subcontract. Subcontractor and its lower-tier subcontractors shall not contact the Boeing Customer, or otherwise attempt to lobby, intervene in or status contract actions, negotiations or discussions, or otherwise release information to such Boeing Customer(s), either directly or indirectly (except through Boeing), without Boeing's written direction. Subcontractor agrees that no public announcement will be made except through, or as approved in writing by Boeing.
2. Exceptions to the general rule stated in paragraph 1., above, shall be made: (i) when an authorized Boeing person is present at a face-to-face meeting, or when an authorized Boeing person is involved as a participant in the telephone conversation, and consents to the communication; or, (ii) when a release relates solely to Subcontractor's internal processes, proprietary rates expressly excluded from release to Boeing under subcontract terms and conditions, or Government allegations of the Subcontractor's or a lower-tier subcontractor's misconduct, or (iii) pursuant to a properly issued subpoena or other order of a court of competent jurisdiction, or (iv) as is required to respond to questions initiated by a Federal auditor in the course of a Program audit. In the event an exception applies, written notice of any statement and/or the questions and answers will be provided by the Subcontractor to the cognizant authorized Boeing Procurement Agent within two business days of the communication.
3. Further, except as required by law, no release of information, or confirmation or denial of same, with respect to the prime contract, this subcontract or a related lower-tier subcontract, or the subject matters thereof, will be made by Subcontractor without the prior written approval of Boeing.
4. Subcontractor agrees to incorporate the substance of this clause, suitably adjusted, in all lower-tier subcontracts under this subcontract.

V. ADVANCE CHANGE ADJUSTMENT AGREEMENT

Applies only when a cost plus fixed fee order over \$5,000,000 is placed:

1. Purpose. This SCR establishes a procedure by which the parties agree to change this contract according to the clause entitled "Changes - Cost Reimbursement" without equitable adjustments to the contract price as specified in this subparagraph. The parties agree that each change not

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exceeding \$250,000, which also does not affect the contract delivery, or performance schedules or any other contract provision shall be a change having no effect on the contract price. There will be no fee adjustment for each change not exceeding \$250,000 which does not affect contract delivery or performance, or any contract provision.

2. Procedure. When it is proposed to make a change under the "Changes - Cost Reimbursement" clause and both parties agree that such a change will require no equitable adjustment as contemplated by subparagraph a. of this SCR, the contractor shall submit an abbreviated proposal or offer to accomplish the proposed change without an equitable adjustment. If the Contracting Officer concurs that no adjustment is necessary, the contractor's proposal may be accepted by issuing an executed copy of a Standard Form 30.

The modification shall:

- i. Be issued under the "Changes - Cost Reimbursement" clause;
- ii. Cite this SCR;
- iii. Reference the contractor's proposal or offer; and
- iv. Direct the changes to be made.

The issuance of the modification shall constitute acceptance of the contractor's proposal or offer, shall be binding on both parties, and shall be a full, complete and final settlement for the directed changes.

3. Limitation. The parties agree that this advance Change Agreement shall not be used more than three times per year for each calendar year that this contract is in effect.