

# THE BOEING COMPANY

## GENERAL PROVISIONS

Cost Reimbursement Contract  
(Government Prime Contract)  
**DF 4400-916 (Rev. 2/97)**

- ACCEPTANCE.** This Contract is Buyer's offer to Seller, and acceptance is strictly limited to its terms. Buyer shall not be bound by and specifically objects to any term or condition whatsoever which is different from or in addition to the provisions of this Contract, whether or not such term or condition will materially alter this Contract. Seller commencement of performance or acceptance of this Contract in any manner shall conclusively evidence agreement to this Contract as written.
- DEFINITIONS.** Whenever used in this Contract, (a) "Customer" means any customer of Buyer, any subsequent owner, operator or user of the Goods and any other individual, partnership, corporation or person or entity which has or acquires any interest in the Goods from, through or under buyer; (b) "FAR" means the Federal Acquisition Regulation; (c) "DFARS" means the Department of Defense FAR Supplement; (d) "NFS" means NASA FAR Supplement; (e) "Goods" means all of the goods, services, data, software and other items furnished or to be furnished to Buyer under this Contract; and (f) "Contract" means this purchase contract including the provisions on its face, these General Provisions, and all of the specifications, technical descriptions, statements of work, drawings, designs, documents, and other requirements and provisions attached to, incorporated into or otherwise made a part of this purchase contract by mutual agreement. [Unless otherwise specified in this contract, FAR/DFARS and NFS references cited herein are those in effect on the date of this contract.]
- PACKING AND SHIPPING.** Seller shall prepare and pack the Goods to prevent damage and deterioration, and comply with carrier tariffs. Charges for preparation, packing, crating and cartage are included in the price unless separately specified in this Contract. Goods sold f.o.b. place of shipment shall be forwarded collect. Seller shall make no declaration concerning value of Goods shipped, except on Goods where tariff rating is dependent upon released or declared value, in which event Seller shall release or declare such value at maximum value within the lowest rating. The Seller shall reimburse Buyer for all damage or deterioration of the Goods which would have been prevented by proper packing and packaging. Any such reimbursement shall not be considered an allowable cost under this contract.
- PERFORMANCE AND DELIVERY.** The performance of services and shipment or delivery of goods (as specified in this contract) shall be strictly in accordance with the requirements and schedule specified in this contract. If at any time it appears Seller will not meet such requirements or schedule, Seller shall promptly notify Buyer in writing of the reasons for and the estimated duration of the delay and the actions being taken by Seller to overcome or minimize the delay, and if requested by Buyer, Seller shall ship via air or expedited routing to avoid or minimize delay to the maximum extent possible. Unless Seller is excused from prompt performance as hereinafter provided in the clause entitled "Excusable Delays", the added premium transportation costs are to be borne by Seller and not considered as an allowable or recoverable cost hereunder. Such recovery of premium transportation costs are not Buyer's exclusive remedy for Seller's late performance or nonperformance but shall be in addition to Buyer's other remedies.
- ALLOWABLE COST AND PAYMENT.** FAR 52.216-7, "Allowable Cost and Payment," is incorporated by reference. "Contractor" means Seller; "Contracting Officer" means Buyer, except in paragraphs (d)(2), (d)(3) and (e); and Government means Buyer.

6. **FIXED FEE.** (Applicable if this is a cost-plus-fixed-fee contract.)

(a) The Buyer shall pay the Seller for performing this contract the fixed fee specified in the Contract.

(b) Payment of the fixed fee shall be made as specified in the Contract; provided, that after payment of 85 percent of the fixed fee, the Buyer may withhold further payment of fee until a reserve is set aside in an amount that the Buyer considers necessary to protect the Buyer's interest. This reserve shall not exceed 15 percent of the total fixed fee or \$100,000, whichever is less.

7. **INVOICE PAYMENT REQUIREMENTS.**

- A. *Payments.* Payments are made from "Original" invoices only. Fax copies, statements or invoice copies will not be accepted. "Duplicate Original" invoices must not be sent without prior authorization from either the Buyer or Accounts Payable. "Duplicate Original" invoices must be signed and dated with the full signature of Seller's appropriate manager. Initials will not be accepted. Third Party Billing is not allowed.
- B. *Terms.* Payment terms BEGIN UPON RECEIPT of an acceptable invoice by Buyer's Accounts Payable organization. Payments are not scheduled based upon the date of your invoice. Agreed upon terms must be correctly indicated on your invoice and should agree with the purchase contract. Example: 2% 10 Net 30.
- C. *Mailing Information.*

Invoices are to be mailed to: Boeing Defense & Space Group Accounts Payable  
Mail Stop 80-FW  
P.O. Box 34113  
Seattle, WA 98124-1113

Express Overnight mail should be sent to: Boeing Defense & Space Group Accounts Payable  
18-01 Building, 2nd Floor, Mail Stop 80-FW  
20403 68th Avenue South  
Kent, WA 98032

- D. *Prepaid Freight Charges.* When prepaid freight charges are authorized by Buyer, include a copy of the "prepaid freight bill" with the invoice for charges over \$100.00. Freight charges will be deducted from the payment if this documentation is not included.
- E. *Invoice Information.* All invoices must contain the following information:
1. Buyer's Purchase Contract Number (Example: AA1111 or AAA111)  
(**Note:** Only one Purchase Contract Number per Invoice.)
  2. Payment Terms (Example: 2% 10 Net 30)
  3. Invoice Number
  4. Invoice Date
  5. Boeing Purchase Contract Order Line Item Number (Example: 05)
  6. Quantity Invoiced  
(**Note:** quantity invoiced must equal quantity shipped and cannot exceed quantity ordered)
  7. Boeing Part Number
  8. Unit Price

9. Total Price
10. Total Tax
11. Freight Charges

The Purchase Contract is the sole basis for your payment. Incorrect invoices will be returned unpaid. Accounts Payable cannot authorize or negotiate any changes to the Purchase Contract. Contact the Buyer directly to resolve invoice discrepancies.

8. **INCENTIVE FEE.** (Applicable if this is a cost-plus-incentive-fee contract). FAR 52.216-10, "Incentive Fee," is incorporated by reference. "Contractor" means Seller and "Government" and "Contracting Officer" means Buyer. Paragraph (e) is set forth in full elsewhere in this contract.
9. **LIMITATION OF COST.** (Applicable if this contract is fully funded.) FAR 52.232-20, "Limitation of Cost," is incorporated by reference. "Schedule" means contract, "Contractor" means Seller and "Government" and "Contracting Officer" means Buyer, the word "exclusive" in the first sentence of paragraph (a) is revised to "inclusive" and paragraph (d)(1) is revised to read:

"(1) The Buyer is not obliged to reimburse the Seller for costs incurred and fee in excess of (i) the estimated cost and fee specified in the contract or, (ii) if this is a cost-sharing contract, the estimated cost to the Buyer specified in the Contract."

10. **LIMITATION OF FUNDS.** (Applicable if this contract is incrementally funded.). FAR 52.232-22, "Limitation of Funds," is incorporated by reference. "Schedule" means contract, "Contractor" means Seller, "Government" and "Contracting Officer" means Buyer, the word "exclusive" in the second sentence of paragraph (b) is revised to "inclusive" and subparagraph (f)(1) is revised to read:

"(1) The Buyer is not obligated to reimburse the Seller for costs incurred and fee in excess of the total amount allotted by the Buyer to this contract; and"

## 11. **CHANGES.**

(a) Buyer's Materiel Representative may at any time, by written order, make changes within the general scope of this contract, in any one or more of the following (i) drawings, designs, statement of work or specifications; (ii) method of shipment or packing; (iii) place of inspection, delivery or acceptance; and (iv) the amount of Buyer-furnished property.

Seller shall proceed immediately to perform this contract as changed. If any such change causes an increase or decrease in the estimated or target cost of or the time required for the performance of this contract, whether changed or not changed by any such order, or otherwise affects any other provisions of this contract, an equitable adjustment shall be made (i) in the estimated or target cost of performance or delivery schedule, or both, (ii) in the amount of any fee to be paid to Seller, and (iii) in such other provisions of this contract as may be so affected, and this contract shall be modified in writing accordingly. Unless otherwise agreed in writing, any Seller claim for adjustment must be asserted to Buyer in writing within 25 days with a firm proposal delivered to the Buyer within 60 days after Seller receipt of such direction. However, if Buyer decides that the facts justify such action, it may receive and act upon any such claim asserted at any time prior to final payment under this contract. Nothing in this clause shall excuse Seller from proceeding with this contract as changed, including failure of the parties to agree upon any adjustment to be made under this clause. In the event Seller considers that any conduct of Buyer or Buyer's employees constitutes a change to this contract, Seller shall immediately notify Buyer setting forth in detail the nature of the conduct and the effect upon performance of this contract. Pending receipt of

written direction from Buyer's Materiel Representative, Seller shall take no action to implement the change which Seller believes has occurred.

(b) Notwithstanding the foregoing provisions of this clause, the estimated or target cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof shall not be increased or deemed to be increased except by specific written modification of this contract indicating the new contract estimated cost and the new amount allotted to this contract. Until such modification is made, the Seller shall not be obligated to continue performance or incur costs beyond the point established in the clauses of this contract entitled "Limitation of Cost" and "Limitation of Funds".

12. **INSPECTION OF SUPPLIES.** (Applicable only if supplies will be delivered.) FAR 52.246-3, "Inspection of Supplies - Cost Reimbursement," is incorporated by reference. "Contractor" means Seller, "Government" means Buyer and in paragraph (f) "6 months" is revised to read "12 months."
13. **INSPECTION OF SERVICES.** (Applicable only if services will be provided.) FAR 52.246-5, "Inspection of Services - Cost-Reimbursement," is incorporated by reference. "Contractor" means Seller and "Government" means Buyer.
14. **RESPONSIBILITY FOR INSPECTION.** The Seller is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers' parts. Authorized representatives of the Buyer or its government customer shall, upon request, be afforded the opportunity to inspect and/or witness testing of supplies/services, or be permitted on-site review of evidence of contractor performance of such inspections/tests.
15. **RESPONSIBILITY FOR BUYER-OWNED PROPERTY.** Unless otherwise specified, upon delivery to Seller or manufacture or acquisition by Seller of any materials, parts, tooling, data or other property, title to which is in Buyer, Seller assumes the risk of and shall be responsible for any loss thereof or damage thereto. In accordance with the provisions of this Contract, but in any event upon completion thereof, Seller shall return such property to Buyer in the condition in which it was received except for reasonable wear and tear and except for such property as has been reasonably consumed in the performance of this Contract. Buyer-owned property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Buyer in writing.
16. **GOVERNMENT-OWNED PROPERTY.** FAR 52.245-5, "Government Property (Cost Reimbursement, Time-and-Material, or Labor-Hour Contracts)," is incorporated by reference. "Contractor" means Seller, where appropriate, "Government" and "Contracting Officer" mean or include Buyer, and paragraph (g) is revised to read as follows:

"(g) Risk of Loss. Seller, upon the delivery to it or acquisition by it of any Government property, assumes the risk of and shall be responsible for all loss thereof or damage thereto. When such property is no longer needed for the performance of this contract, or at such other time as may be directed by the Buyer pursuant to paragraph (i) of this clause, Seller shall return such property to the Buyer or the Government, as applicable, in as good condition as when received, except for reasonable wear and tear, and except for such property as has been reasonably consumed in the performance of work hereunder."

17. **RESPONSIBILITY FOR PERFORMANCE.** Buyer issuance of this Contract is based in part on Buyer reliance upon Seller's ability, expertise and awareness of the intended use of the Goods, and Seller's continuing compliance with all applicable laws and regulations during the performance of this Contract. Further, Seller shall not, by contract, operation of law, or otherwise, assign any of its rights or interest in this Contract, including but not limited to any right to monies due or to become due, or delegate any of its duties or obligations under this Contract, or subcontract all or substantially all of its performance of this Contract to one or more third parties, without Buyer's prior written consent. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this Contract.
18. **SUBCONTRACTS.** FAR 52.244-2, "Subcontracts (Cost-Reimbursement and Letter Contracts)", and Alternate I are incorporated by reference. "Contractor" means Seller and "Contracting Officer" means Buyer.
19. **TERMINATION/CANCELLATION.**
  - (a) The performance of work under this contract may be terminated in whole or in part, by Buyer in accordance with the Termination clause set forth in FAR 52.249-6 incorporated herein by reference. "Government" and "Contracting Officer" shall mean Buyer and the phrase "1 year" is deleted each place it occurs and "180 days" is substituted. If this contract supports a prime contract with the U.S. Government, settlements and payments under this clause are subject to approval by the Contracting Officer and Settlement Review Board.
  - (b) By written notice Buyer may cancel the whole or any part of this contract in the event of Seller default of any or all of the requirements of this contract, or in the event of suspension of Seller's business, insolvency of Seller, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property or business or any assignment, reorganization or arrangement by Seller for the benefit of creditors.
20. **EXCUSABLE DELAYS.** FAR 52.249-14, "Excusable Delays," is incorporated by reference. "Contractor" means Seller and "Contracting Officer" means Buyer.
21. **PUBLICITY.** Seller shall not, and shall require that its subcontractors and suppliers of any tier shall not, cause or permit to be released any publicity, advertisement, news release, public announcement, or denial or confirmation of same, in whatever form, regarding any aspect of this Contract or the Goods or program to which they pertain without Buyer's prior written approval. The above restrictions shall not apply to information provided in response to Government requests.
22. **CONFIDENTIAL OR PROPRIETARY INFORMATION AND PROPERTY.** Seller shall keep confidential and otherwise protect from disclosure all information and property obtained from Buyer in connection with this Contract and identified as confidential or proprietary. Unless otherwise expressly authorized herein or by Buyer, Seller shall use such information and property, and the features thereof, only in the performance and for the purpose of this Contract; provided, however, that if the U.S. Government has the right to authorize the use of such information or property, Seller may, to the extent of such right, use such information or property as authorized by the U.S. Government; provided, further, that Seller give Buyer notice of such authorization prior to use, and shall indemnify and hold harmless Buyer from all claims, demands, damages or causes of action caused by or in any way arising out of products manufactured by Seller using such information and property and sold by Seller to parties other than Buyer. Except for any allocable portion of Seller's allowable insurance costs included in Seller's indirect costs, the cost of such indemnity shall not be considered allowable or recoverable under this contract. Upon Buyer's request, and in any event upon the completion, termination or cancellation of this Contract, Seller shall return all such information and property to Buyer or make such other disposition thereof as is directed by Buyer. Seller shall not sell or dispose of as scrap or otherwise any completed or partially completed or defective proprietary property before receiving written authorization from Buyer and before rendering such property unsuitable for use. In all subcontracts and purchase orders issued by Seller for performance of work related to this Contract, Seller shall provide to Buyer the same rights and



protection as contained in this clause.

23. **COMPLIANCE WITH LAWS.** Seller shall be responsible for complying with all laws, including, but not limited to, any statute, rule, regulation, judgment, decree, order or permit applicable to its performance under this Contract. Seller further agrees (1) to notify Buyer of any obligation under this Contract which is prohibited under any applicable environmental law, at the earliest opportunity but in all events sufficiently in advance of Seller's performance of such obligation so as to enable the identification of alternative methods of performance, and (2) to notify Buyer at the earliest possible opportunity of any aspect of its performance which becomes subject to additional environmental regulation or which Seller reasonably believes will become subject to additional environmental regulation during performance of this Contract.
24. **MATERIAL SAFETY DATA SHEETS.** Seller will comply with the Hazard Communication Standard, 29 CFR 1910.1200. Seller shall ensure that the name of the Product as identified on the MSDS is identical to the name which appears on the label of the Product shipped to Buyer. Seller shall provide a copy of the Material Safety Data Sheet with each shipment of the product.
25. **NOTIFICATION OF TOXIC CHEMICALS.** Seller will comply with Section 313 of the Emergency Planning and Community Right to Know Act of 1986 (EPCRA) and 40 CFR Part 372, if applicable. As part of such compliance, Seller shall furnish to the Buyer's Material Representative the following information with the initial shipment of each Product to Buyer:
  - a. A statement that the Product contains chemicals which are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 and 40 CFR 372.45;
  - b. The name and the associated Chemical Abstract Service Registry number of each chemical which has been incorporated in the Product and which is listed in the specific Toxic Chemical Listings contained in 40 CFR 372.65; and
  - c. The percent by weight of each toxic chemical component of the product shipped.

If the Seller is required to submit a Material Safety Data Sheet (MSDS), this notification must be attached to or otherwise incorporated into such MSDS.

26. **LEAD.** It is the policy of Buyer to prohibit the use of paints containing lead in any form. Seller hereby affirms that the Product provided in compliance with this Contract contains no lead. Further Buyer prohibits the use of lead hammers and lead "slappers." Seller hereby affirms that individuals under its control are informed of this policy.
27. **SHIPPING HAZARDOUS MATERIALS.**
  - (a) Shipment of hazardous materials shall be by common carrier authorized to handle the material, and in accordance with 49 CFR Parts 100-199 and the IATA "Dangerous Goods Regulations" or "The International Maritime Dangerous Goods Code" (if applicable). This includes but is not limited to:
    - (1) Shipping papers must include the emergency contact number.
    - (2) Shipping papers and packages for hazardous materials or wastes identified as "N.O.S." (not otherwise specified) must show the technical name(s) listed in parenthesis, the association to the basic description, and in the case of mixtures, list the major hazardous components by percentage contributing to the hazard.
  - (b) Seller shall indicate on the shipping papers whether the material presents Poisonous by

Inhalation (PIH) hazard.

(c) At Buyer's request Seller will provide test reports indicating Performance Oriented Packaging (POPs) compliance to facilitate Buyer's reshipment of Seller's Product.

(d) Seller shall mark on all interior packages and shipping containers the closed cup flash point of flammable and combustible materials and/or percentage concentration of corrosive liquids.

28. **ASBESTOS FREE DUNNAGE.** Each package and/or container shipped to Buyer is to be free of any asbestos-containing vermiculite and/or any asbestos-containing material as dunnage. Seller hereby warrants to Buyer that the vermiculite and any other dunnage is asbestos-free.
29. **SELLER NOTICE OF DISCREPANCIES.** Seller will notify Buyer in writing when discrepancies in the Seller's process or product are discovered or suspected which may affect parts or assemblies Seller has delivered or will deliver under this contract.
30. **PRODUCTS MANUFACTURED WITH OZONE DEPLETING SUBSTANCES.** The item(s) to be delivered under this contract may be manufactured using Class I ozone depleting substances and the following warning statement shall apply to such item(s):

**WARNING:** Manufactured with CFC-11, 12, 13, 111, 112, 113, 114, 115, 211, 212, 213, 214, 215, 216, 217, Halons 1211, 1301, 2402, Carbon Tetrachloride or Methyl Chloroform, substances which harm public health and environment by destroying ozone in the upper atmosphere.

31. **PRODUCTS CONTAINING OZONE DEPLETING SUBSTANCES.** The item(s) to be delivered under this contract may contain a Class I ozone depleting substance and the following warning statement shall apply to such item(s):

**WARNING:** Contains CFC-11, 12, 13, 111, 112, 113, 114, 115, 211, 212, 213, 214, 215, 216, 217, Halons 1211, 1301, 2402, Carbon Tetrachloride or Methyl Chloroform, substances which harm public health and environment by destroying ozone in the upper atmosphere.

32. **LABELING REQUIREMENTS.** It is agreed that the statements in Articles 30 and 31 above satisfy the requirements of the Clean Air Act Amendments of 1990 (Section 611), Title 40 CFR Part 82. Accordingly, no method of marking or tagging items shall be used unless the item is a chemical or chemical compound.
33. **NON-WAIVER AND PARTIAL INVALIDITY.** Any and all failures, delays or forbearances of Buyer in insisting upon or enforcing at any time or times any of the provisions of this Contract, or to exercise any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies in those or any other instances; rather, the same shall be and remain in full force and effect. Further, if any provision of this Contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.
34. **GOVERNMENT REQUIREMENTS.** Within Seller's invoice or other form satisfactory to Buyer, Seller shall certify that goods covered by this Contract were produced in compliance with Sections 6, 7 and 12, Fair Labor Standards Act, as amended, and the regulations and orders of the U.S. Department of Labor issued thereunder. The Equal Opportunity clause set forth in FAR 52.222-26 is incorporated herein by reference, except "Contractor" means Seller.

35. **SUBCONTRACT DISPUTES.** (a) Any dispute or claim which cannot be settled through mutual negotiation of the parties may be presented before any court of competent jurisdiction. Except, that in regard to any claim or dispute that directly relates to or arises out of a Contracting Officer's decision concerning Seller's compliance with the Truth in Negotiations Act or Cost Accounting Standards, the Seller may request, in writing, to the Buyer that such disputes or claim be appealed to the Contracting Officer, Board of Contract Appeals, Federal Court or Appellate Court as may be appropriate. If the Buyer elects not to appeal such decision, the Seller shall have the right to invoke the remedies reserved to the Buyer under the prime contract and under the Contract Disputes Act of 1978 to prosecute an appeal in the name of the Buyer. (b) If prosecution of an appeal by the Seller requires the Buyer to provide a certification in compliance with 41 U.S.C. §605(c)(1), the parties agree that the Buyer may withhold such certification if it has a reasonable basis to believe that the Seller's claim is not made in good faith and is frivolous or constitutes a sham. (c) By filing an appeal, the Seller agrees to indemnify and hold harmless the Buyer from any all claims arising out of or directly related to the appeal including, but not limited to, liability under 41 U.S.C. §604. (d) The Buyer shall notify Seller in writing within ten (10) working days after receipt of any written decision rendered by the Contracting Officer if such decision affects the contract. Thereafter, within thirty (30) days the Buyer shall forward to Seller a copy of the Contracting Officer's decision and shall notify Seller in writing, concerning Buyer's election to appeal the Contracting Officer's decision. (e) All reasonable costs and expenses incurred by Buyer and Seller in prosecuting any appeal initiated by Buyer solely at Seller's request shall be paid by Seller; otherwise each party shall bear its proportionate share of the expenses based upon its respective share of the amount in controversy or such other allocation as the parties may agree is equitable. (f) Pending any decision upon appeal, the Seller shall proceed diligently with performance of this contract.

36. **INTEREST.**

(a) Notwithstanding any other clause of this contract, all amounts that become payable by the Seller to the Buyer under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

- (1) The date fixed under this contract.
- (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
- (3) The date the Buyer transmits to the Seller a proposed contract change to confirm completed negotiations establishing the amount of debt.
- (4) If this contract provides for revision of prices, the date of written notice to the Seller stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

37. **GOVERNING LAW.** This contract and the performance thereof shall be governed by the laws of the State of Washington, U.S.A.



38. **GOVERNMENT INSPECTION.** All goods (which term includes without limitation raw materials, components, intermediate assemblies, end products and technical data) shall be subject to inspection and test by the Government, to the extent practicable, at all times and places including the period of manufacture, and in any event prior to Government acceptance. Through any of its authorized representatives, the Government may inspect the plant or plants of Seller or any of Seller's subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of Seller or Seller's subcontractors, Seller shall provide and shall require its subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. The Seller is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers' parts. Authorized representatives of the Buyer or his Government customer shall, upon request, be afforded the opportunity to inspect and/or witness testing of supplies/services, or be permitted on-site review of evidence of Seller performance of such inspections/tests. Seller shall include the substance of this provision in all subcontracts issued hereunder.
39. **PRICING OF ADJUSTMENTS.** When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other provision of this contract, or when the allowability of costs under this contract are to be determined, determination of such costs shall be in accordance with FAR Part 31 and, when applicable, DFARS Part 31.
40. **DEFENSE PRIORITY RATING.** If a defense priority rating is identified on the face of this contract, this is a rated order certified for national defense use and the Seller shall follow all the requirements of the Defense Priorities and Allocations Systems Regulation (15 CFR Part 700).
41. **ANTI-KICKBACK PROCEDURES.** Seller agrees to abide by the Anti-Kickback Act of 1986 (41 U.S.C. 51 through 58) and FAR 52.203-7, "Anti-Kickback Procedures" which is incorporated herein by reference, except that subparagraph (c)(1) of FAR 52.203-7 shall not apply to Seller, and further that in subparagraphs (c)(2), (c)(3), and (c)(5), the term "Contractor" shall mean Seller, and in subparagraph (c)(4) the term "Prime Contractor" shall mean Buyer and the term "Subcontractor" shall mean Seller. In addition to reporting possible violations of the Anti-Kickback Act to the Government pursuant to 41 U.S.C. §57(c), Seller shall report such possible violations, if related to Buyer, to the Director of Materiel and/or the Division Counsel of the Boeing division or subsidiary issuing this contract. Seller agrees to hold Buyer harmless from, defend Buyer against, and indemnify Buyer for all costs, expenses, and offsets Buyer may incur as a consequence of violations of this clause by Seller or by Seller's subcontractors or suppliers. The rights and obligations set forth in this clause shall survive completion of, final payment under, or termination of, this order.
42. **TRUTH IN NEGOTIATIONS ACT.** Seller shall comply with the provisions of FAR 52.215-22 and 52.215-24 which are incorporated herein by reference to the extent such clauses are or become applicable to this contract. In the absence of other instructions, Seller shall submit cost or pricing data for changes which exceed the established threshold consistent with the cost or pricing data instructions applicable to the proposal for this contract. Seller shall reimburse the Buyer any amount by which this contract is determined by the Government to have been overpriced because of Seller's or Seller's subcontractor's failure to comply with such provisions plus any interest, fines or other penalties imposed upon the Buyer as a result of the Seller's or the Seller's subcontractor's defective pricing.
43. **ENTIRE AGREEMENT.** This Contract sets forth the entire agreement, and supersedes any and all other agreements, understandings and communications, between Buyer and Seller and related to the subject matter of this Contract with the exception of Proprietary Information Agreements, which shall continue in force in accordance with the provisions of such agreements. No amendment or modification of this Contract shall be binding upon Buyer unless set forth in a written instrument signed by Buyer's Materiel Representative and an authorized representative of the Seller. The rights and remedies afforded to Buyer or Customers pursuant to any provision of this Contract are in addition to any other rights and remedies afforded by any other provisions of this Contract, by law, or otherwise.