



## BOEING CANADA OPERATIONS LTD. GENERAL PROVISIONS (Fixed Price Goods Contract) GPW1 (Rev 01/15/2009)

**1. FORMATION OF CONTRACT.** This proposed contract is Buyer's offer to purchase the goods and services (Goods) described in this offer. Acceptance is strictly limited to the terms and conditions in this offer. Unless specifically agreed to in writing by Buyer's Authorized Procurement Representative, Buyer objects to, and is not bound by, any term or condition that differs from or adds to this offer. Seller's commencement of performance or acceptance of this offer in any manner shall conclusively evidence acceptance of this offer as written.

### ENGLISH LANGUAGE

- a) The parties agree that this contract, as well as all contractual documents, correspondence, invoices, notices, and other documents, shall be in American English. Any necessary conversations shall be in English. Buyer shall determine whether measurements will be in the English or metric system or a combination of the two. Seller shall not convert measurements that Buyer has stated in the English system into the metric system in documents furnished to Buyer.
- b) The following sentence is applicable only to companies located in Quebec, Canada: "Les parties aux presentes ont convenu de rediger ce contrat en Anglais seulement." [Translation: The parties hereto have agreed that this contract be drafted in English only.]

### UNITED STATES CURRENCY

Unless otherwise specified elsewhere herein, all prices and payments shall be in the currency of the United States (U.S. dollars), with no prices or payments adjusted for changes in currency exchange rates.

### 2. SCHEDULE

- a. Seller shall strictly adhere to the shipment or delivery schedules specified in this contract. In the event of any anticipated or actual delay, including but not limited to delays attributed to labor disputes, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii) if requested by Buyer, ship via air or other expedited routing to avoid or minimize delay to the maximum extent possible. Unless Seller is excused from prompt performance as provided in the "Force Majeure" article of this contract, the added premium transportation costs are to be borne by Seller.
- b. Seller shall not deliver Goods prior to the scheduled delivery dates unless authorized by Buyer.
- c. Buyer shall, at no additional cost, retain goods furnished in excess of the specified quantity or in excess of any allowable overage unless, within 45 days of shipment, Seller requests return of such excess. In the event of such request, Seller shall reimburse Buyer for reasonable costs associated with storage and return of the excess. If Goods are manufactured with reference to Buyer's proprietary information or materials, Seller agrees that, pursuant to the "Confidential, Proprietary and Trade Secrets Information and Materials" article of this contract, it will not sell or offer such Goods for sale to anyone other than Buyer without Buyer's prior written consent.

### 3. PACKING & SHIPPING

Seller shall pack the Products to prevent damage and deterioration taking into account method of shipment, location of shipment and destination of receipt, as well as time associated with shipment. Seller shall comply with carrier tariffs. Unless the Order specifies otherwise, the price includes shipping charges for Products to the F.C.A. location. Unless otherwise specified in the Order, Products sold F.C.A. place of shipment shall be forwarded freight due. For Products shipped domestically, Seller shall make no declaration concerning the value of the Products shipped, except on the Products where the tariff rating is dependent upon released or declared value. In such event, Seller shall release or declare such value at the maximum value (within the lowest rating). Boeing may charge Seller for damage to or deterioration of any Products resulting from improper packing or packaging. Seller shall comply with any special instructions stated in the applicable Order.

**SHIPPING DOCUMENTATION** -Shipments by Seller or its subcontractors must include packing sheets. Each packing sheet must include as a minimum the following: a) Seller's name, address and phone number; b) Order and line item number; c) ship date for the Products; d) total quantity shipped and quantity in each container, if applicable; e) legible pack slip number; f) nomenclature; g) unit of measure; h) ship to information if other than Boeing; i) warranty data and certification, as applicable; j) rejection tag, if applicable; k) Seller's certification that Products comply with Order requirements; and, l) identification of optional material used, if applicable. A shipment containing hazardous and non-hazardous materials must have separate packing sheets for the hazardous and non-hazardous materials. Seller shall consolidate all same day shipments via same carrier to the same consignment address on one bill of lading or air-bill (exceptions for consolidation are AOGs or critical orders authorized for expedited delivery), unless Boeing's Authorized Procurement Representative authorizes otherwise. The shipping documents will describe the material according to the applicable classification and/or tariff rating. The total number of shipping containers will be referenced on all shipping documents. Originals of all government bills of lading will be surrendered to the origin carrier at the time of shipment.

INSURANCE -Seller will not insure any FCA Origin shipment unless authorized by Boeing.

SHIPPING CONTAINER LABELS- Seller will label each shipping container with the Order number and the number that each container represents of the total number being shipped (e.g., Box 1 of 2, Box 2 of 2). Two copies of the packing sheets must be attached to the No. 1 container or on each container of the shipment and one copy in each individual container. The following markings shall be included on each unit container: a) Seller's name; b) Seller's part number, if applicable; c) Boeing part number, if applicable; d) part nomenclature; e) Order number; f) quantity of Products in container; g) unit of measure; h) serial number, if applicable; i) date identified as Product or raw material cure date, if applicable; j) precautionary handling instructions or marking as required, k) Name and address of consignee; and l) Name and address of consignor. Boeing may request other packaging configurations as required. AOG, Critical, FLR, POA, or SOS shall be conspicuously marked on the outside of each package or container if applicable. Boeing will identify AOG, Critical, FLR, POA, or SOS status at time of order or expedite.

CARRIER SELECTION -Boeing will select the carrier and mode of transportation for all shipments where freight costs will be charged to Boeing. Boeing reserves the right to charge back all freight costs if the Seller fails to follow any approved routing instructions.

INVOICES -Seller will include copies of documentation supporting any freight prepaid and add charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices.

CUSTOMS -A Canada Customs Invoice/Commercial Invoice is required for all shipments originating outside Canada with a Boeing Canada shipping destination. Seller is responsible for the completion of the Invoice according to Canada Customs Revenue Agency (CCRA) rules and regulations. Any financial penalties incurred by Boeing as a direct result of the Seller's error shall be charged back to the Seller. Goods delayed by Canada Customs as a direct result of the Seller's error thereby causing a late delivery shall be subject to the remedies as specified in Section 6, Delay.

CERTIFICATES -A NAFTA Certificate of Origin is required for all shipments originating from the United States and Mexico with a Boeing Canada shipping destination. Seller is responsible for the completion of the Certificate of Origin according to Canada Customs Revenue Agency (CCRA) rules and regulations. Any financial penalties incurred by Boeing as a direct result of the Seller's error shall be charged back to the Seller.

NONCOMPLIANCE -If Seller is unable to comply with the shipping instructions in this Agreement, Seller will contact Boeing's Authorized Procurement Representative.

## 6. DELIVERY

REQUIREMENTS -Deliveries shall be strictly in accordance with the quantities, the schedule and other requirements specified in the applicable Order. Seller may not make early deliveries (more than 7 manufacturing days before the requested dock-date or 3 manufacturing days before requested dock date for local Suppliers within Manitoba) without Boeing's prior written authorization. Seller may not make partial deliveries without Boeing's prior authorization.

Deliveries, which fail to meet Order requirements, may be returned to Seller at Seller's expense. When requested, the Seller shall notify Boeing of shipments advising carrier name, waybill number, purchase order number, part number, and quantity of goods. Seller may be required to fax or e-mail shipping documentation and/or respond to a past-due/open order report.

DELAY - Seller shall notify Boeing immediately, of any circumstances that may cause a delay in delivery, stating the estimated period of delay and the reasons therefore. If requested by Boeing, Seller shall use additional effort, including premium effort, and shall ship via air or other routing as requested to avoid or minimize delay to the maximum extent possible. All costs resulting from the Seller's premium effort shall be borne by Seller with the exception of such costs attributable to delays caused directly by Boeing. Boeing reserves the right to request the Seller to ship at their own expense, all items shipped after due date quoted to Boeing. Boeing may request prepaid Air Express service or prepaid ground service depending upon the schedule impact. Nothing herein shall prejudice any of the rights or remedies provided to Boeing in the applicable Order or by law including, without limitation, the right to recover any additional production and/or administrative costs directly resulting from a Supplier delay.

## IMPORT/EXPORT-

A. In performing the obligations of this Agreement, both Parties will comply with applicable import and export laws and regulations of Seller's country and United States export control and sanctions laws, regulations, and orders, as they may be amended from time to time, applicable to the export and re-export of goods including parts, plans, tools, documents, software, technology, or technical data ("Items") or services, including without limitation the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations ("ITAR"), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control and Controlled Goods (CG) Program of Canada (collectively, "Export Control Laws"). This contract may involve information or Items which may not be released to "Foreign Persons" outside of the USA unless authorized by Boeing.

B. The Party conducting the export shall be responsible for obtaining the required authorizations. The Party conducting the re-export shall be responsible for obtaining the required authorizations. Each Party shall reasonably cooperate and exercise reasonable efforts to support the other Party in obtaining any necessary licenses or authorizations required to perform its obligations under this Agreement.

C. Export Control Classification Numbers (ECCN) are applicable to all USA origin Items and the Party providing any Items under this Agreement shall, upon request, notify the other Party of the Items' ECCNs as well as the ECCNs of any components or parts thereof if they are different from the ECCN of the Item at issue.

D. Each Party represents that (i) the Items, and the parts and components thereof, it is providing under this Agreement are not "defense articles" as that term is defined in 22 C.F.R. sub section 120.6 of the ITAR, and (ii) the services it is providing under this Agreement are not "defense services" as that term is defined in 22 C.F.R. sub section 120.9 of the ITAR. The Parties acknowledge that this representation means that an official capable of binding the Party providing such Items knows or has otherwise determined that such Items, and the parts and components thereof, are not on the ITAR's Munitions List at 22 C.F.R. sub section 121.1. Each Party agrees to reasonably cooperate with the other in providing, upon request of the other Party, documentation or other information that supports or confirms this representation.

E. To the extent that such Items, or any parts or components thereof, were specifically designed or modified for a military end use or end user, the Party providing such Items shall notify the other Party of this fact and shall also provide the other Party with written confirmation from the United States Department of State that such Items, **and all such parts or components thereof, are not subject to the jurisdiction of the ITAR.**

**4. QUALITY CONTROL.** Seller shall establish and maintain a quality control system acceptable to Buyer for the Goods purchased under this contract. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation of or deviation from Seller's approved inspection/quality control system and to advise Buyer of the quantity and specific identity of any Goods delivered to Buyer during the period of any such violation or deviation.

**5. SELLER'S NOTICE OF DISCREPANCIES.** Seller shall notify Buyer in writing when discrepancies in Seller's process or Goods are discovered or suspected regarding Goods delivered or to be delivered under this contract.

#### **6. INSPECTION**

- a. At no additional cost to Buyer, Goods shall be subject to inspection, surveillance and test at reasonable times and places, including Seller's subcontractors' locations. Buyer shall perform inspections, surveillance and tests so as not to unduly delay the work.
- b. Seller shall maintain an inspection system acceptable to Buyer for the Goods purchased under this contract.
- c. If Buyer performs an inspection or test on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of these duties.

#### **7. ACCEPTANCE AND REJECTION**

- a. Buyer shall accept the Goods or give Seller notice of rejection or revocation of acceptance ("rejection" herein), notwithstanding any payment, prior test or inspection, or passage of title. No inspection, test, delay or failure to inspect or test or failure to discover any defect or other nonconformance shall relieve Seller of any obligations under this contract or impair any rights or remedies of Buyer.
- b. If Seller delivers non-conforming Goods, Buyer may at its option and at Seller's expense (i) return the Goods for credit or refund; (ii) require Seller to promptly correct or replace the Goods; (iii) correct the Goods; or (iv) obtain replacement Goods from another source.
- c. Seller shall not redeliver corrected or rejected goods without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. Repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Buyer's Authorized Procurement Representative may reasonably direct.
- d. All costs and expenses and loss of value incurred as a result of or in connection with nonconformance and repair, replacement or other correction may be recovered from Seller by equitable price reduction or credit against any amounts that may be owed to Seller under this contract or otherwise.

#### **8. WARRANTY**

a. Seller warrants that all Goods furnished under this contract shall conform to all specifications and requirements of this contract and shall be free from defects in materials and workmanship. To the extent Goods are not manufactured pursuant to detailed designs and specifications furnished by Buyer, the Goods shall be free from design and specification defects. This warranty shall survive inspection, test and acceptance of, and payment for, the Goods. This warranty shall run to Buyer and its successors, assigns and customers. Such warranty shall begin after Buyer's final acceptance. Buyer may, at its option, either (i) return for credit or refund, or (ii) require prompt correction or replacement of the defective or non-conforming Goods. Return to Seller of defective or non-conforming Goods and redelivery to Buyer of corrected or replaced Goods shall be at Seller's expense. Goods

required to be corrected or replaced shall be subject to this article and the "Inspection" article of this contract in the same manner and to the same extent as Goods originally delivered under this contract, but only as to the corrected or replaced part or parts thereof. Even if the parties disagree about the existence of a breach of this warranty, Seller shall promptly comply with Buyer's direction to: (i) repair, rework or replace the Goods, or (ii) furnish any materials or parts and installation instructions required to successfully correct the defect or nonconformance. If the parties later determine that Seller did not breach this warranty, the parties shall equitably adjust the contract price.

b. Seller warrants that any hardware, software and firmware Goods delivered under this contract 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 duration of this warranty and the remedies available to Buyer for breach of this warranty shall be as defined in, and subject to, the other warranties contained in this contract, provided that notwithstanding any provision to the contrary in such warranties, the remedies available to Buyer under this warranty shall include repair or replacement of any non-compliant Goods discovered and made known to Seller in writing. Nothing in this warranty shall be construed to limit any rights or remedies Buyer may otherwise have under this contract with respect to defects other than year-2000 performance.

**9. TAXES.** Unless this contract specifies otherwise, the price of this contract includes, and Seller is liable for and shall pay, all taxes, impositions, charges and exactions imposed on or measured by this contract except for applicable sales and use taxes that are separately stated on Seller's invoice. Prices shall not include any taxes, impositions, charges or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption.

**10. INVOICES AND PAYMENT.** Unless otherwise authorized by Buyer's Authorized Procurement Representative, Seller shall issue a separate original invoice for each delivery of Goods that shall include Buyer's contract number and line item number. Seller shall forward its invoice to the address specified elsewhere in this contract. Unless freight or other charges are itemized, Buyer may take any offered discount on the full amount of the invoice. Payment due date, including discount periods, shall be computed from the later of the scheduled delivery of Goods date, the actual delivery of Goods date or the date of receipt of a correct invoice. Payment shall be deemed made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay Buyer any amounts paid in excess of amounts due Seller

## **11. CHANGES**

- a. Buyer's Authorized Procurement Representative may, without notice to sureties and in writing, direct changes within the general scope of this contract in any of the following: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; (vi) terms and conditions of this contract required to meet Buyer's obligations under Government prime contracts or subcontracts; and, if this contract includes services, (vii) description of services to be performed; (viii) time of performance (e.g., hours of the day, days of the week); and (ix) place of performance. Seller shall comply immediately with such direction.
- b. If such change increases or decreases the cost or time required to perform this contract, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this contract in writing accordingly. Unless otherwise agreed in writing, Seller must assert any claim for adjustment to Buyer's Authorized Procurement Representative in writing within 25 days and deliver a fully supported proposal to Buyer's Authorized Procurement Representative within 60 days after Seller's receipt of such direction. Buyer may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer may direct the disposition of the property. Buyer may examine Seller's pertinent books and records to verify the amount of Seller's claim. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction.
- c. If Seller considers that Buyer's conduct constitutes a change, Seller shall notify Buyer's Authorized Procurement Representative immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Buyer's Authorized Procurement Representative, Seller shall take no action to implement any such change.

**12. DISPUTES.** Any dispute that arises under or is related to this contract 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.

**13. FORCE MAJEURE.** Seller shall not be liable for excess procurement costs pursuant to the "Cancellation for Default" article of this contract, incurred by Buyer because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of Seller. Examples of these causes are (a) acts of God or of the public enemy, (b) acts of the Government in either its sovereign or contractual capacity, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) freight embargoes and (i) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of Seller. If the delay is caused by delay of a subcontractor of Seller and if such delay arises out of causes beyond the reasonable control of both, and if such delay is without the fault or negligence of either, Seller shall not be liable for excess costs unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Seller shall notify Buyer in writing within 10 days after the beginning of any such cause.

**14. TERMINATION FOR CONVENIENCE.** Buyer may terminate all or part of this contract, effective as of the date specified by Buyer, in accordance with the provisions of Federal Acquisition Regulation ("FAR") 52.249-2 (Sep 96), "Termination for Convenience of the Government (Fixed Price)," which provisions, except for subparagraphs (d) and (j), are incorporated herein by reference. The terms "Government" and "Contracting Officer" shall mean "Buyer," "Contractor" shall mean "Seller," and the phrase "1 year" is deleted each place it occurs and "six months" is substituted in its place. The time for requesting an equitable adjustment under subparagraph (l – lower case letter L) is reduced to 45 days. Settlements and payments under this article may be subject to approval by the Contracting Officer and the Settlement Review Board.

#### **15. CANCELLATION FOR DEFAULT**

- a. Buyer may, by written notice to Seller, cancel all or part of this contract if (i) Seller fails to deliver the Goods within the time specified by this contract or any written extension; (ii) Seller fails to perform any other provision of this contract or fails to make progress, so as to endanger performance of this contract, and, in either of these two circumstances, does not cure the failure within 10 days after receipt of notice from Buyer specifying the failure; or (iii) in the event of Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors.
- b. Seller shall continue work not canceled. If Buyer cancels all or part of this contract, Seller shall be liable for Buyer's excess re-procurement costs.
- c. Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any (i) completed Goods, and (ii) any partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the canceled portion of this contract. Upon direction from Buyer, Seller shall also protect and preserve property in its possession in which Buyer or its Customer has an interest.
- d. Buyer shall pay the contract price for Goods accepted. Payment for Manufacturing Materials accepted by Buyer and for the protection and preservation of property shall be at a price determined in accordance with the "Termination for Convenience" article of this contract, except that Seller shall not be entitled to profit. Buyer may withhold from any amount due under this contract any sum Buyer determines to be necessary to protect Buyer or Buyer's customer against loss because of outstanding liens or claims of former lien holders.
- e. If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the parties shall be as if the contract had been terminated according to the "Termination for Convenience" article of this contract.

**16. ASSIGNMENT, DELEGATION AND SUBCONTRACTING.** Seller shall not assign any of its rights or interest in this contract or subcontract or all or substantially all of its performance of this contract, without Buyer's prior written consent. Seller shall not delegate any of its duties or obligations under this contract. Seller may assign its right to monies due or to become due. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this contract or prejudice any of Buyer's rights against Seller whether arising before or after the date of any assignment. This article does not limit Seller's ability to purchase standard commercial supplies or raw materials.

**17. PUBLICITY.** Without Buyer's prior written approval, Seller shall not, and shall require that its subcontractors at any tier shall not, release any publicity, advertisement, news release or denial or confirmation of same regarding this contract or the Goods or program to which it pertains. Seller shall be responsible to Buyer for any breach of such obligation by any subcontractor.

**18. BUYER'S PROPERTY.** Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Buyer's property and all property to which Buyer acquires an interest by virtue of this contract. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control, including any transfer to Seller's subcontractors. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall not use such property other than in performance of this contract without Buyer's prior written consent.

Seller shall notify Buyer's Authorized Procurement Representative if Buyer's property is lost, damaged or destroyed. As directed by Buyer, upon completion, termination or cancellation of this contract, Seller shall deliver such property, to the extent not incorporated in delivered Goods, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this article limits Seller's use, in its direct contracts with the Government, of property in which the Government has an interest.

**19. PATENT, TRADEMARK AND COPYRIGHT INDEMNITY.** Seller will indemnify, defend and hold harmless Buyer and its customer from all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the manufacture, sale or use of Goods by either Buyer or its customer. Buyer and/or its customer will duly notify Seller of any such claim, suit or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of indemnitees. Seller will have no obligation under this article with regard to any infringement arising from (a) Seller's compliance with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Goods for other than their intended application in combination with other items when such infringement would not have occurred from the use or sale of those Goods solely for the purpose for which they were designed or sold by Seller. For purposes of this article only, the term Buyer will include The Boeing Company and all Boeing subsidiaries and all officers, agents and employees of Boeing or any Boeing subsidiary.

**20. CONFIDENTIAL, PROPRIETARY AND TRADE SECRET INFORMATION AND MATERIALS.** Buyer and Seller shall each keep confidential and protect from unauthorized use and disclosure all (a) confidential, proprietary and/or trade secret information; (b) tangible items and software containing, conveying or embodying such information; and (c) tooling identified as being subject to this article and obtained, directly or indirectly, from the other in connection with this contract or other agreement referencing this contract (collectively referred to as "Proprietary Information and Materials"). Buyer and Seller shall each use Proprietary Information and Materials of the other only in the performance of and for the purpose of this contract and/or any other agreement referencing this contract. However, despite any other obligations or restrictions imposed by this article, Buyer shall have the right to use, disclose and reproduce Seller's Proprietary Information and Materials, and make derivative works thereof, for the purposes of testing, certification, use, sale or support of any Goods delivered under this contract or any other agreement referencing this contract. Any such use, disclosure, reproduction or derivative work by Buyer shall, whenever appropriate, include a restrictive legend suitable for the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by Seller shall apply to all materials derived by Seller or others from Buyer's Proprietary Information and Materials. Upon Buyer's request at any time, and in any event upon the completion, termination or cancellation of this contract, Seller shall return to Buyer all of Buyer's Proprietary Information and Materials and all materials derived therefrom, unless specifically directed otherwise in writing by Buyer. Seller shall not, without the prior written authorization of Buyer, sell or otherwise dispose of (as scrap or otherwise) any parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Buyer. Prior to disposing of such parts or other materials as scrap, Seller shall render them unusable. Buyer shall have the right to audit Seller's compliance with this article. Seller may disclose Proprietary Information and Materials of Buyer to its subcontractors as required for the performance of this contract, provided that each such subcontractor first agrees in writing to the same obligations imposed upon Seller under this article relating to Proprietary Information and Material. Seller shall be liable to Buyer for any breach of such obligation by such subcontractor. The provisions of this article are effective in lieu of any restrictive legends or notices applied to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this contract.

**21. FINANCIAL RECORDS AND AUDIT.** Seller shall retain all financial records and documents pertaining to the Goods for a period of no less than three years after final payment. Such records and documents shall date back to the time this contract was issued and shall include without limitation, catalogs, price lists, invoices, underlying data and basis for cost estimates, and inventory records. Buyer shall have the right to examine, reproduce and audit all such records related to pricing and incurred costs.

**22. RIGHTS OF BUYER'S CUSTOMERS AND REGULATORS TO PERFORM INSPECTION, SURVEILLANCE AND TESTING.** Buyer's rights to perform inspections, surveillance and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control, flight safety and configuration control shall extend to the customers of Buyer that are departments, agencies or instrumentalities of the United States Government and to the United States Government Federal Aviation Administration and any successor agency or instrumentality of the United States Government. Buyer may also, at Buyer's option, by prior written notice from Buyer's Authorized Procurement Representative, extend such rights to other customers of Buyer and to agencies or instrumentalities of foreign governments equivalent in purpose to the Federal Aviation Administration. Seller shall cooperate with any such

United States Government-directed or Buyer-directed inspection, surveillance, test or review without additional charge to Buyer. Nothing in this contract shall be interpreted to limit United States Government access to Seller's facilities pursuant to law or regulation.

**23. GRATUITIES.** Seller warrants that neither it nor any of its employees, agents, or representatives have offered or given, or will offer or give, any gratuities to Buyer's employees, agents or representatives for the purpose of securing this contract or securing favorable treatment under this contract.

**24. OFFSET CREDITS**

- a. To the exclusion of all others, Buyer or its assignees shall be entitled to all industrial benefits or offset credits which might result from this contract. Seller shall provide documentation or information that Buyer or its assignees may reasonably request to substantiate claims for industrial benefits or offset credits.
- b. Seller agrees to use reasonable efforts to identify the foreign content of goods that Seller either produces itself or procures from subcontractors for work directly related to this contract. Promptly after selection of a non-U.S. subcontractor for work under this contract, Seller shall notify Buyer of the name, address, subcontract point of contact (including telephone number) and dollar value of the subcontract.

**25. UTILIZATION OF SMALL BUSINESS CONCERNS.** Seller agrees to actively seek out and provide the maximum practicable opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, minority business enterprises, historically black colleges and universities and minority institutions, Historically Underutilized Business Zone small business concerns and U.S. Veteran and Service-Disabled Veteran Owned small business concerns to participate in the subcontracts Seller awards to the fullest extent consistent with the efficient performance of this contract.

**26. RIGHTS AND REMEDIES.** Any failures, delays or forbearances of either party in insisting upon or enforcing any provisions of this contract, or in exercising any rights or remedies under this contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect. Except as otherwise limited in this contract, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity. If any provision of this contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

**27. COMPLIANCE WITH LAWS.** Seller shall comply with all applicable statutes and government rules, regulations and orders, including those pertaining to Canadian Controlled Goods and United States Export Controls.

**28. GOVERNING LAW.** The laws of the Province of Manitoba, country of Canada, shall govern this contract. This contract excludes the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods. Seller hereby irrevocably consents to and submits itself exclusively to the jurisdiction of the applicable courts of the Province of Manitoba for the purpose of any suit, action or other judicial proceeding arising out of or connected with any Order or the performance or subject matter thereof.

**29. GOVERNMENT CLAUSES.** Government clauses applicable to this contract are incorporated herein either by attachment to this document or by some other means of reference.

**30. SUSPENSION OF WORK**

- a. Buyer's Authorized Procurement Representative may, by written order, suspend all or part of the work to be performed under this contract for a period not to exceed 100 days. Within such period of any suspension of work, Buyer shall (i) cancel the suspension of work order; (ii) terminate this contract in accordance with the "Termination for Convenience" article of this contract; (iii) cancel this contract in accordance with the "Cancellation for Default" article of this contract; or (iv) extend the stop work period.
- b. Seller shall resume work whenever a suspension is canceled. Buyer and Seller shall negotiate an equitable adjustment in the price or schedule or both if (i) this contract is not canceled or terminated; (ii) the suspension results in a change in Seller's cost of performance or ability to meet the contract delivery schedule; and (iii) Seller submits a claim for adjustment within 20 days after the suspension is canceled.

**31. ACCESS TO PLANTS AND PROPERTIES.** Seller shall comply with all the rules and regulations established by Buyer for access to and activities in and around premises controlled by Buyer or Buyer's customer.

**32. CODE OF CONDUCT.** Buyer is committed to conducting its business fairly, impartially, and in an ethical and proper manner. Buyer's expectation is that Seller also will conduct its business fairly, impartially, and in an ethical and proper manner. Buyer's further expectation is that Seller will have (or will develop) and adhere to a code of ethical standards. If Seller has cause to believe that Buyer or any employee or agent of Buyer has behaved improperly or unethically under

this contract, Seller shall report such behavior to The Boeing Company Ethics hotline. Copies of The Boeing Company Code of Conduct and contacts for such reports are available on [www.boeing.com](http://www.boeing.com) under "Ethics." Although Buyer will not use the failure to report improper or unethical behavior as a basis for claiming breach of contract by Seller, Seller is encouraged to exert reasonable effort to report such behavior when warranted.

Seller shall (i) comply with all applicable country laws relating to anti-corruption or anti-bribery, including but not limited to legislation implementing the Organization for Economic Co-operation and Development "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" (the "OECD Convention") or other anti-corruption/anti-bribery convention; (ii) comply with the requirements of the Foreign Corrupt Practices Act, as amended, (FCPA) (15 U.S.C. §§78dd-1, *et. seq.*), regardless of whether Seller is within the jurisdiction of the United States; and (iii) neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value received from Boeing to a Non-U.S. public official or any person in violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribe.

**33. SELLER FINANCIAL REVIEW.** If the contract exceeds \$250,000 and extends for more than one year, and if requested, the Seller shall provide financial data on a quarterly basis or as requested to the Buyer's 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 Buyer. All such information shall be treated as confidential.

This provision shall not apply to contracts with nonprofit education or research institutions associated with state or provincial universities; contracts with agencies of the United States government or agencies of state governments; contracts with entities that are at least fifty percent (50%) directly owned by Buyer; or, contracts for services of an individual when the individual is the sole employee of the company.

**34. CODE OF BASIC WORKING CONDITIONS AND HUMAN RIGHTS.** Buyer is committed to providing a safe and secure working environment and the protection and advancement of basic human rights in its worldwide operations. In furtherance of this commitment, Buyer has adopted a Code of Basic Working Conditions and Human Rights setting out in detail the measures it takes to ensure this commitment is fulfilled. The Boeing Code may be downloaded at <http://www.boeing.com/employment/culture/code.html>. Buyer strongly encourages Seller to adopt and enforce concepts similar to those embodied in the Boeing Code, including conducting Seller's operations in a manner that is fully compliant with all applicable laws and regulations pertaining to fair wages and treatment, freedom of association, personal privacy, collective bargaining, workplace safety and environmental protection. Seller will promptly cooperate with and assist Buyer in implementation of and adherence to the Boeing Code.

Any material breach of this Section 34 by Seller may be considered a major breach of this contract for which Buyer may elect to cancel any open orders between Buyer and the Seller, for cause, in accordance with the provision of this order entitled "Cancellation for Default" or exercise any other right of Buyer for an Event of Default under this contract.

**35. ELECTRONIC ACCESS.** The following provisions set forth the additional requirements for Seller's Electronic Access to the Boeing Systems. For purposes of the work to be performed under this contract, the provisions set forth herein relative to Electronic Access shall supersede and replace any prior agreements related to Electronic Access. For purposes of these provisions "Electronic Access" is defined as access by Seller or any Seller Personnel to the Boeing Systems using any access or transmission method, including without limitation the World Wide Web, Internet, or private data transmission lines. For purposes of this provision, "Boeing Systems" is defined as any electronic information systems operated by or on behalf of Buyer, including without limitation, facilities, network equipment, telecommunications networks, software, files and data. For the purpose of this provision, Seller Personnel is defined as any of Seller's employees, contract labor, consultants, advisers, or leased employees who have been authorized to access Boeing Systems.

Subject to Buyer revocation or termination at Buyer's discretion, Buyer grants to Seller a limited, nontransferable, nonexclusive revocable right to access the Boeing Systems electronically, solely during the term of the contract and solely to the extent authorized by Buyer and necessary for Seller perform under, and in accordance with the terms of, this contract. Seller shall not access or use the Boeing Systems for any other purpose.

Without limiting the generality of the foregoing, Seller shall not, unless authorized in writing by Buyer: (a) export or save locally any Proprietary Information and Materials from the Boeing Systems to Seller's system or any other computing resources or media, (b) make any derivative uses of the Boeing Systems or the Proprietary Information and Materials, (c) use any data mining, robots, or similar data gathering and extraction methods, (d) use any frame or framing techniques to enclose any Proprietary Information and Materials found on the Boeing Systems, or (e) access any Proprietary



Information and Materials marked as "Limited" (whether electronically or in hard copy) or "Limited Distribution" (collectively, the "Unauthorized Proprietary Information and Materials") or (f) attempt to gain access to Unauthorized Proprietary Information and Materials or restricted portions of the Boeing System through reverse engineering, decompiling, or disassembling any portion of the Access Controls, for purposes of this provision Access Controls means a set of controls and/or mechanisms used to authenticate the identity of a system user and authorize access, including, but not limited to, user identifications and passwords, tokens, smart cards and biometrics. If Seller inadvertently accesses any Unauthorized Proprietary Information and Materials or restricted portions of the Boeing Systems, Seller shall: (1) not read such Unauthorized Proprietary Information and Materials, (2) notify Buyer of such inadvertent access to Unauthorized Proprietary Information and Materials, and (3) cooperate with Buyer to avoid future access to Unauthorized Proprietary Information and Materials and/or Boeing Systems. Seller acknowledges that any attempts by Seller or any Seller Personnel to circumvent any security measures designed to prevent unauthorized access to the Boeing Systems may be in violation of the U.S. Federal Computer Fraud and Abuse Act and other applicable laws, may subject the violator to criminal and civil penalties, and will be grounds for immediate suspension of Electronic Access and for termination of the contract. This provision does not grant to Seller any ownership interest in, or any express or implied license or right to, any of the Proprietary Information and Materials or to any software or intellectual property rights owned by Buyer or any third party. Seller agrees that it will abide by and shall not remove any restrictive legends or markings in the Proprietary Information and Materials or Boeing Systems. If Seller is unsure about the scope of authorized Electronic Access, Seller agrees to contact Buyer's Authorized Procurement Representative for instruction.

Seller may request, and Buyer may provide in its sole discretion, Electronic Access for Seller Personnel on a "need to know" basis in order for Seller to fulfill its obligations or perform under the contract. Seller shall: (1) ensure that all Seller Personnel with Electronic Access review and agree in writing to abide by the terms of this provision, and any other applicable provision contained in this contract, prior to Seller requesting Electronic Access for such Seller Personnel, (2) maintain complete and accurate records of all Seller Personnel who are granted Electronic Access, and provide such records to Buyer upon request, and (3) be fully responsible for the acts and omissions of all Seller Personnel with respect to their Electronic Access, including without limitation, Seller Personnel's use or disclosure of Proprietary Information and Materials obtained through such Electronic Access, or Seller Personnel's actions while in possession of such Proprietary Information and Materials.

Prior to initiating any Electronic Access, each Seller Personnel who needs Electronic Access will be required to: (a) obtain from Buyer an Electronic Access account and access controls, and (b) participate in a security briefing in accordance with Buyer specifications. Seller shall assign a single focal (who may be changed at any time with written notice to Buyer) to initiate requests for Electronic Access for Seller Personnel, to coordinate security briefings, to coordinate with Buyer regarding notices of actual or potential security breaches, and to maintain records. Seller shall take all reasonable precautions to prevent the loss, disclosure, reverse engineering or compromise of Access Controls. Seller shall immediately notify Buyer if it believes that any Access Control has been compromised. Seller shall ensure that Seller Personnel do not access the Electronic Access through any mechanism other than the Access Controls, regardless of whether such alternative is available. Seller acknowledges that the access controls are for specific individual use only, and are not transferable and shall be maintained in confidence by Seller. Seller agrees to review (at least every 3 months) each of Seller Personnel's Electronic Access requirements; provided, however that Seller agrees to immediately initiate a request to terminate the Electronic Access of individual Seller Personnel in the event of the reassignment, resignation or termination of any Seller Personnel to whom Electronic Access has been granted. Buyer may be required to obtain information concerning citizenship or immigrant status of Seller Personnel obtaining Electronic Access. Seller agrees to furnish this information when requesting Electronic Access. Information submitted by Seller shall be certified by an authorized representative of Seller as being true and correct. Access to certain Boeing Systems may be limited due to Boeing compliance with applicable U.S. export control laws. Where access is granted, Seller shall be responsible for obtaining all export licenses required, where applicable, for each such Seller Personnel, including to allow such Seller Personnel to perform the work to which he or she is assigned, and Seller shall comply with any additional export control restrictions as required by applicable laws, rules and regulations.

To the fullest extent consistent with Applicable Law, Buyer has the right to monitor, record, retrieve and disclose to others (including, but not limited to, law enforcement officials) all information, including the content of communications, related to any Electronic Access by Seller and Seller Personnel.

In the event Seller discovers or is notified of a security breach or potential security breach, Seller shall immediately: 1) notify Buyer of such security breach or potential security breach and of the Proprietary Information and Materials involved; and, 2) assist Buyer in investigating, remedying (including assurance of nonrecurrence) and taking any other action Buyer deems necessary regarding any security breach or potential security breach and any dispute, inquiry or claim that concerns such security breach or potential security breach. Seller shall make the notification required in this Section by sending to [infosec@boeing.com](mailto:infosec@boeing.com), with a courtesy copy to the applicable procurement representative, an electronic mail message specifying the information required in this Section. Nothing contained in this Section is intended to limit any of Buyer's rights or remedies under this contract or otherwise.

SELLER EXPRESSLY AGREES THAT BUYER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO RELIABILITY OF ELECTRONIC ACCESS.

Any material breach of this Section 35 by Seller may be considered a major breach of this contract for which Buyer may elect to cancel any open orders between Buyer and the Seller, for cause, in accordance with the provision of this order entitled "Cancellation for Default" or exercise any other right of Buyer for an Event of Default under this contract.

**36. ENTIRE AGREEMENT.** This contract contains the entire agreement of the parties and supersedes any and all prior agreements, understandings and communications between Buyer and Seller related to the subject matter of this contract. No amendment or modification of this contract shall bind either party unless it is in writing and is signed by Buyer's Authorized Procurement Representative and an authorized representative of Seller.