

**1. FORMATION OF CONTRACT.** This proposed contract is Buyer's offer to purchase the materials and services (Services) described in this offer. Acceptance is strictly limited to the terms and conditions included 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.

**2. SCOPE OF SERVICES.** During the term of this contract, Seller shall furnish the Services set forth in the contract.

**3. INDEPENDENT SELLER.** Seller is an independent Seller for all purposes. Seller shall have complete control over the performance of, and the details for accomplishing, the Services. In no event shall Seller or its agents, representatives or employees be deemed to be agents, representatives or employees of Buyer. Seller's employees shall be paid exclusively by Seller for all services performed. Seller shall comply with all requirements and obligations relating to such employees under federal, provincial and local law (or foreign law, if applicable). Such compliance shall include, but not be limited to, laws regarding minimum wages, social insurance, unemployment insurance, federal and provincial income taxes and workers' compensation insurance.

#### **4. PACKING AND 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 FCA location. Unless otherwise specified in the Order, Products sold FCA 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). Buyer 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 Buyer'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 Buyer.

**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) Buyer 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. Buyer may request other packaging configurations as required. AOG, Critical, POA, or SOS shall be conspicuously marked on the outside of each package or container if applicable. Buyer will identify AOG, Critical, POA, or SOS status at time of order or expedite.

**CARRIER SELECTION** -Buyer will select the carrier and mode of transportation for all shipments where freight costs will be charged to Buyer. Buyer 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 Buyer 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 Buyer 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 Buyer's Authorized Procurement Representative.

**DELIVERYREQUIREMENTS** -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 Buyer's prior written authorization. Seller may not make partial deliveries without Buyer'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 Buyer 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 Buyer immediately, of any circumstances that may cause a delay in delivery, stating the estimated period of delay and the reasons therefore. If requested by Buyer, 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 Buyer. Buyer reserves the right to request the Seller to ship at their own expense, all items shipped after due date quoted to Buyer. Buyer 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 Buyer 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 Buyer 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.**

**5. QUALITY CONTROL.** Seller shall establish and maintain a quality control system acceptable to Buyer for the Services purchased under this contract. Seller shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability.

**6. 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.

## **7. 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.

**8. ACCEPTANCE.** Buyer shall accept the Services or give Seller notice of rejection within a reasonable time after delivery, notwithstanding any payment or prior test or inspection. No inspection, test, delay or failure to inspect or test or failure to discover any defect or other nonconformance, shall relieve Seller of any of its obligations under this contract or impair any rights or remedies of Buyer or Buyer's customers. Acceptance shall be conclusive, except for latent fraud or gross mistakes amounting to fraud.

## **9. REJECTION**

- a. If Seller delivers nonconforming Services, Buyer may require Seller to promptly correct or replace the nonconforming Services. Redelivery to Buyer of any corrected or replaced Services shall be at Buyer's expense, limited to Seller's hourly rate as set forth in this contract, excluding that portion of the rate attributable to profit. Notwithstanding the prior sentence, Buyer may at any time require Seller to remedy by correction or replacement, without cost to Buyer, any failure by Seller to comply with the requirements of this contract if the failure is due to (i) fraud, lack of good faith, or willful misconduct on the part of Seller's managerial personnel or (ii) the conduct of one or more of Seller's employees selected or retained by Seller after any of Seller's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.
- b. In addition Buyer may (i) correct the nonconforming Services or (ii) obtain replacement Services from another source at Seller's expense.
- c. Seller shall not redeliver corrected or rejected Services without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. All repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Buyer may reasonably direct.

**10. STANDARDS.** Seller shall assign personnel satisfactory to Buyer. At any time and for any reason, Buyer may require Seller to withdraw the services of any person and require that Seller promptly provide replacements for such persons satisfactory to Buyer. In addition to the other indemnification provisions within this contract, Seller specifically agrees to indemnify and hold harmless Buyer, from and against any liabilities, claims, charges or suits for alleged losses, costs, damages or expenses arising from Buyer's exercise of its rights hereunder.

**11. WARRANTY FOR SERVICES.** Seller warrants that all Services performed hereunder shall be performed by employees or agents of Seller who are experienced and skilled in their profession and in accordance with industry standards. Seller further warrants that all Services performed under this contract, at the time of

acceptance, shall be free from defects in workmanship and conform to the requirements of this contract. Buyer shall give written notice of any defect or nonconformance to Seller within one year from the date of acceptance by Buyer. Buyer may, at its option, either (a) require correction or re-performance of any defective or nonconforming Services, or (b) make an equitable adjustment in the price of this contract. If Seller is required to correct or re-perform the Services, such correction or re-performance shall be at Seller's expense. Any Services corrected or re-performed shall be subject to this article to the same extent as work initially performed. If Seller fails or refuses to correct or re-perform, Buyer may correct or replace with similar Services and charge Seller for any cost to Buyer, or make an equitable adjustment in the price of this contract.

## **12. WARRANTY FOR MATERIALS**

- a. Seller warrants that all materials 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 materials are not manufactured pursuant to detailed designs and specifications furnished by Buyer, the materials shall be free from design and specification defects. This warranty shall survive inspection, test and acceptance of, and payment for, the materials. 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 nonconforming materials. Return to Seller of defective or nonconforming materials and redelivery to Buyer of corrected or replaced materials shall be at Seller's expense. Materials 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 materials 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 materials 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.

**13. SELLER NOTICE OF DISCREPANCIES.** Seller shall immediately notify Buyer in writing when discrepancies in Seller's process or materials are discovered or suspected which may affect the Services delivered or to be delivered under this contract.

**14. 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.

## **15. INVOICES AND PAYMENT**

- a. As compensation for services to be performed by Seller, Buyer shall pay Seller as set forth in this Contract. Buyer shall have no liability for any other expenses or costs incurred by Seller. Payment due date, including discount periods, shall be computed from the date of the later of the scheduled delivery date of the Services, the actual delivery date of the Services or the date of receipt of a correct invoice. Payment shall be deemed to have been made on the date the Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of amounts due Seller.
- b. Seller shall not take any action hereunder which could cause the amount for which Buyer would be obligated to Seller to exceed the contract price. Seller shall advise Buyer, in writing, when the cumulative billable value of fees for Services and authorized expenses, if any, are equal to seventy-five percent (75%) of the contract price. Notwithstanding any other provisions of this contract, Buyer shall not be obligated to pay to Seller any amount in excess of the contract price, provided however, that this sum may be increased from time to time by Buyer in writing.

## **16. 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 were 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) the time of performance (e.g., hours of the day, days of the week, etc.); (ix) place of performance, and 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.

**17. 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.

#### **18. EXCUSABLE DELAYS**

a. Except for defaults of sub-contractor at any tier, Seller shall not be in default 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:

- (1) acts of God or any of the public enemy
- (2) acts of the Government in either its sovereign or contractual capacity
- (3) fires
- (4) floods
- (5) epidemics
- (6) quarantine restrictions
- (7) strikes
- (8) freight embargoes, and
- (9) unusually severe weather

In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Seller. "Default" includes failure to make progress in the work so as to endanger performance.

b. If the failure to perform is caused by the failure of a sub-contractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both Seller and sub-contractor, and without the fault or negligence of either, Seller shall not be deemed to be in default unless--

- (1) The subcontracted supplies or services were obtainable from other sources;
- (2) Buyer's Authorized Procurement Representative ordered Seller in writing to purchase these supplies or services from the other source; and
- (3) Seller failed to comply reasonably with this order.

c. Upon request of Seller, Buyer's Authorized Procurement Representative shall ascertain the facts and extent of the failure. If Buyer's Authorized Procurement Representative determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of Buyer under the "Cancellation for Default" article of this contract.

**19. OVERTIME.** Overtime shall mean those hours worked in excess of 40 hours during Seller's standard work week. All such overtime must have prior written approval of Buyer.

**20. HOLIDAYS AND VACATIONS.** If work is performed on Buyer's premises, Buyer shall not be obligated to make any payments to Seller for days designated by Buyer as holidays or shutdown periods, except for work specifically authorized in writing by Buyer's Authorized Procurement Representative and performed by Seller on such days.

#### **21. FINANCIAL RECORDS AND AUDIT**

a. Seller shall maintain complete and accurate books, records and documents pertaining to the time worked, costs, expenses and allowances incurred in the performance of this contract in sufficient detail to properly reflect all net costs (direct and indirect) of labor, materials, equipment supplies, services and other costs and expenses for which reimbursement or compensation is claimed. The labor hours shall be supported by a timekeeping system acceptable to Buyer and shall include evidence of actual payment. Buyer shall have the right to assign representatives to Seller's plant for the purpose of verifying the number and type of direct hours being incurred

and making such audit and check of Seller's activities as may be reasonably required. Material charges shall be supported by paid invoices or storeroom requisitions. When Buyer-furnished property is used, a copy of Buyer's shipper will be kept in Seller's files for auditing purposes. Such records shall be made available to Buyer, upon request, for examination, reproduction and audit from the date of this contract until three years after final payment hereunder. As a result of any audit performed by Buyer, payments previously made to Seller shall be subject to adjustment for over payment or under payment, respectively. Seller shall submit its final invoice promptly after completion of work. Upon approval of Seller's final invoice and substantiating documentation and upon compliance by Seller with all terms of this contract, Buyer shall promptly pay any balance due to Seller.

b. Upon request, Seller shall make available to Buyer data relative to payroll policies and procedures, including collective bargaining agreements with respect to wage payments for straight time, overtime, holidays, etc.

**22. TERMINATION FOR CONVENIENCE.** Buyer reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, Seller shall immediately cease all work hereunder and shall immediately cause any and all of its suppliers and sub-contractors to cease work. In case of termination for convenience by Buyer of all or any part of this contract, Seller may submit a claim to Buyer within 60 days after the effective date of termination. In no event shall Buyer be obligated to pay Seller any amount in excess of the contract price. The provisions of this article shall not limit or affect the right of Buyer to cancel this contract for default.

**23. CANCELLATION FOR DEFAULT**

a. Buyer may, by written notice to Seller, cancel all or part of this contract (i) if Seller fails to deliver the Services within the time specified by this contract or any written extension; (ii) if 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 bankruptcy, 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.

**24. 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.

**25. PUBLICITY.** Without Buyer's prior written approval, Seller shall not, and Seller's sub-contractors at any tier shall not, release any publicity, advertisement, news release or denial or confirmation of same regarding this contract or the Services or program to which it pertains. Seller shall be responsible to Buyer for any breach of such obligation by any sub-contractor.

**26. 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. 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 materials, 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.

**27. SELLER FURNISHED MATERIAL.** Material shall be furnished by Seller except as specifically provided in this contract. Material purchased to support this contract shall be billed at actual costs without overhead, general and administrative costs, cost of money and profit, as evidenced by paid invoices. Material withdrawn from Seller's stores shall be charged at cost determined in accordance with generally accepted accounting practices. Unless otherwise noted, handling charges are included in the labor rates established in this contract. Buyer shall be credited with all cash or trade discounts, rebates, allowances (whether or not taken) and the value of any resulting scrap.

**28. INDEMNIFICATION, INSURANCE AND PROTECTION OF PROPERTY , AND EVIDENCE OF CITIZENSHIP (Applies when work is performed at a Boeing site).**

a. Indemnification Negligence of Seller or Sub-Contractor. Seller shall indemnify and hold harmless The Boeing Company, its subsidiaries, and their directors, officers, employees and agents from and against all actions, causes of action, liabilities, claims, suits, judgments, liens, awards and damages of any kind and nature whatsoever for property damage, personal injury or death (including without limitation injury to or death of employees of Seller or any sub-contractor thereof) and expenses, costs of litigation and counsel fees related

thereto or incident to establishing the right to indemnification, arising out of or in any way related to this contract, the performance thereof by Seller or any sub-contractor thereof or other third parties, including, without limitation, the provision of services, personnel, facilities, equipment, support, supervision or review. The foregoing indemnity shall apply only to the extent of the negligence of Seller, any sub-contractor thereof, or their respective employees. In no event shall Seller's obligations hereunder be limited to the extent of any insurance available to or provided by Seller or any sub-contractor thereof. Seller expressly waives any immunity under industrial insurance, whether arising out of statute or source, to the extent of the indemnity set forth in this paragraph (a).

**b. Commercial General Liability.** If Seller or any sub-contractor thereof will be performing work on Buyer's premises, Seller shall carry and maintain, and ensure that all sub-contractors thereof carry and maintain, throughout the period when work is performed and until final acceptance by Buyer, Commercial General Liability insurance with available limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined. Such insurance shall contain coverage for all premises and operations, broad form property damage, contractual liability (including, without limitation, that specifically assumed under paragraph [a] herein) and goods and completed-operations insurance with limits of not less than one million dollars (\$1,000,000) per occurrence for a minimum of twenty-four (24) months after final acceptance of the work by Buyer. Such insurance shall not be maintained on a per-project basis unless the respective Seller or sub-contractor thereof does not have blanket coverage.

**c. Automobile Liability.** If licensed vehicles will be used in connection with the performance of the work, Seller shall carry and maintain, and ensure that any sub-contractor thereof who uses a licensed vehicle in connection with the performance of the work carries and maintains, throughout the period when work is performed and until final acceptance by Buyer, Business Automobile Liability insurance covering all vehicles, whether owned, hired, rented, borrowed or otherwise, with available limits of not less than one million dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage.

**d. Workers' Compensation.** Throughout the period when work is performed and until final acceptance by Buyer, Seller shall, and ensure that any sub-contractor thereof shall, cover or maintain insurance in accordance with the applicable laws relating to Workers' Compensation with respect to all of their respective employees working on or about Buyer's premises. If Buyer is required by any applicable law to pay any Workers' Compensation premiums with respect to an employee of Seller or any sub-contractor, Seller shall reimburse Buyer for such payment.

**e. Certificates of Insurance.** Prior to commencement of the work, Seller shall provide for Buyer's review and approval certificates of insurance reflecting full compliance with the requirements set forth in paragraphs (b) Commercial General Liability, (c) Automobile Liability and (d) Workers' Compensation. Such certificates shall be kept current and in compliance throughout the period when work is being performed and until final acceptance by Buyer, and shall provide for 30 days advance written notice to Buyer in the event of cancellation. Failure of Seller or any sub-contractor thereof to furnish certificates of insurance or to procure and maintain the insurance required herein or failure of Buyer to request such certificates, endorsements or other proof of coverage shall not constitute a waiver of Seller's or sub-contractor's obligations hereunder.

**f. Self-Assumption.** Any self-insured retention, deductibles and exclusions in coverage in the policies required under this article shall be assumed by, for the account of and at the sole risk of Seller or the sub-contractor which provides the insurance and to the extent applicable shall be paid by such Seller or sub-contractor. In no event shall the liability of Seller or any sub-contractor thereof be limited to the extent of any of the minimum limits of insurance required herein.

**g. Protection of Property.** Seller assumes, and shall ensure that all sub-contractors thereof and their respective employees assume, the risk of loss or destruction of or damage to any property of such parties whether owned, hired, rented, borrowed or otherwise. Seller waives, and shall ensure that any sub-contractor thereof and their respective employees waive, all rights of recovery against Buyer, its subsidiaries and their respective directors, officers, employees and agents for any such loss or destruction of or damage to any property of Seller, any sub-contractor or their respective employees. At all times Seller shall, and ensure that any sub-contractor thereof shall, use suitable precautions to prevent damage to Buyer's property. If any such property is damaged by the fault or negligence of Seller or any sub-contractor thereof, Seller shall, at no cost to Buyer, promptly and equitably reimburse Buyer for such damage or repair or otherwise make good such property to Buyer's satisfaction. If Seller fails to do so, Buyer may do so and recover from Seller the cost thereof.

**h. Evidence of Citizenship or Immigrant Status.** (i) Buyer may be required to obtain information concerning citizenship or immigrant status of Seller's personnel or Seller's sub-contractor personnel entering the premises of Buyer. Seller agrees to furnish this information before commencement of work and at any time thereafter before substituting or adding new personnel to work on Buyer's premises. Information submitted by Seller shall be certified by an authorized representative of Seller as being true and correct. (ii) With respect to Seller personnel or Seller's sub-contractor personnel entering the premises of Buyer to perform work under this contract, Seller specifically agrees that it is, and will remain in compliance with applicable laws and statutes. Seller subcontracts for work under this contract shall suitably modify the parties in this paragraph and include the substance of this paragraph in subcontracts such that the sub-contractor has the same obligation as Seller.

**29. 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.

**30. 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 sub-contractors as required for the performance of this contract, provided that each such sub-contractor first agrees in writing to the same obligations imposed upon Seller under this article relating to Proprietary Information and Materials. Seller shall be liable to Buyer for any breach of such obligation by such sub-contractor. 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.

**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. NOTICE TO BUYER OF LABOR DISPUTES.** Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, Seller shall immediately give notice thereof, including all relevant information, whether Buyer has requested such status or not. When requested by Buyer, Seller will in a timely manner provide status on labour contracts and pending negotiations and prepare a contingency plan including incurred costs to address potential disruptions to the satisfaction of Buyer acting reasonably. Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, Seller shall immediately give notice thereof, including all relevant information, to Buyer.

**33. 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.

**34. 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 which 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 or services which Seller either produces itself or procures from sub-contractors for work directly related to this contract. Promptly after selection of a non-U.S. sub-contractor 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.

**35. 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 US 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.

**36. SCHEDULE**

a. Seller shall strictly adhere to the schedules specified in this contract. In the event of any anticipated or actual delay, 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 expedited routing to avoid or minimize delay to the maximum extent possible. Unless Seller is excused from prompt performance as provided in the "Excusable Delays" article of this contract, the added premium transportation costs are to be borne by Seller and not considered as an allowable cost under this contract.

b. Seller shall not deliver Services prior to the scheduled delivery dates unless authorized by Buyer.

**37. 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.

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

In addition, 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 Buyer 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-bribery.

**39. 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 irrevocable 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.

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

**41. 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.

**42. 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.

**43. 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 43 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.

**44. 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 non-recurrence) 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 44 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.

**45. 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.