**Boeing Shared Services Group**

**TECHNICAL ASSISTANCE AGREEMENT**

Rev. 09/16

The Boeing Company (“Buyer”), a Delaware corporation, acting through its division Boeing Shared Services Group, agrees to purchase and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Seller”), a \_\_\_\_\_\_\_\_\_\_ corporation, agrees to sell certain goods and related services under the following terms and conditions.

**1. DEFINITIONS**

As used in this Agreement, the following terms when capitalized shall have the meaning set forth in this Section 1 (Definitions). All capitalized terms not defined in this Section 1 (Definitions) shall have the meaning given in the Agreement.

"Acceptance" means Buyer’s acceptance of Services as described in Section 8 (Acceptance).

"Acceptance Criteria" means the specific criteria set forth in an applicable Contract that must be satisfied for Buyer’s Acceptance of Services, or if no criteria are specified, that the Services meet the Specifications, and requirements of this Agreement and the applicable Contract.

"Acceptance Period" means the period of time for Buyer’s testing of Services as specified in a Contract. In the absence of a specific period of time in the applicable Contract, the Acceptance Period shall be such period of time as is needed for Buyer to determine that the Services meet the Acceptance Criteria.

"Affiliate" means a legal entity that directly or indirectly owns, controls, is owned by, or is under common ownership or control with a party.

“Agreement” means these terms and conditions together with all Contracts and all Exhibits (now or hereafter made part of the Agreement, that are incorporated by this reference) and all of the Specifications, technical descriptions, statements of work, schedules, drawings, designs, documents, and other requirements, provisions attached to, incorporated, or otherwise specified in these terms and conditions or any Contract.

“Applicable Laws” means all federal, state, local, international and foreign laws, rules, regulations, directives, orders and ordinances relating to, or in any way governing, the Services, Seller’s performance of the Services or Buyer’s receipt and use of the Work Product.

"Buyer" means The Boeing Company or its divisions or The Boeing Company acting as agent for any of its Affiliates or wholly owned subsidiaries. All references in this Agreement to "The Boeing Company" and any of its Affiliates, divisions, or wholly owned subsidiaries shall mean "Buyer."

“Buyer’s Authorized Procurement Representative” means the representative of Boeing Shared Services Group, Supplier Management department identified in an applicable Contract and as may be changed by Buyer’s written notice to Seller, who is authorized by Buyer to act on behalf of Buyer in business transactions with Seller.

“Buyer Systems” means any electronic information systems operated by or on behalf of Buyer, including, but not limited to, facilities, network equipment, telecommunications networks, software, files, and data.

“Contract” means a written document executed by both parties, which references this Agreement, for the delivery of Services, including the scope of the Services to be performed by Seller and/or a description of all Work Product.

“Claims” means all actions, causes of action, liabilities, claims, suits, judgments, liens, awards, and damages of any kind and nature whatsoever.

“Documentation” means user manuals for any portion of the Work Product; all addenda, corrections, and new editions of these materials; and any other materials in any form, that Seller customarily provides to end-users of any portion of the Work Product. Documentation includes, without limitation, all of the published Specifications for any Pre-Existing Works included in any Work Product.

“Indemnitees” means The Boeing Company, its subsidiaries and Affiliates, and their respective directors, officers, employees, and agents.

"Intellectual Property" means all legal rights (whether or not registered or recorded) in works or ideas including, but not limited to, patents, copyrights, trademarks, proprietary information, mask works, integrated circuit layout designs, databases, technical data, trade secrets and know-how.

"Losses" means all losses, liabilities, judgments, liens, awards, assessments, damages, payments, fines and penalties (including taxes and all related interest and penalties incurred directly with respect thereto), and all related costs, expenses and other charges (including all reasonable attorneys' fees related thereto or incident to establishing the right to indemnification and reasonable costs of investigation, litigation, settlement, judgment, interest and penalties, whether or not specifically awardable under any court rules).

“Pre-Existing Works” means any Intellectual Property owned, licensed, or developed by a party prior to the Effective Date of, or outside the scope of, this Agreement.

“Seller” means the entity identified above that agrees to perform Services and deliver Work Product under this Agreement.

 “Service Levels” means the service commitments agreed to by Seller in connection with the Services to be provided under this Agreement as set forth in an applicable Contract.

“Seller Personnel” means any employee, agent or Subcontractor of Seller who performs Services under this Agreement or an applicable Contract.

 “Subcontractor” means any authorized subcontractor, at any tier, or any other third party, including any Affiliate of Seller, that performs any of Seller’s obligations under this Agreement.

"Specifications" means the performance capabilities, characteristics, and features of any Services as specified in this Agreement, an applicable Contract and/or any related Documentation.

“Services” means all tasks, actions, obligations and services performed or to be performed by Seller or Seller Personnel as described or identified in an applicable Contract.

“Work Product” means any component of the Services or materials (excluding Pre-Existing Works) to be developed and provided by Seller pursuant to an applicable Contract or any Intellectual Property that Seller or any Seller Personnel (either alone or with others) makes, conceives, develops, discovers, reduces to practice, or fixes in a tangible medium in connection with the performance of the Services, including all computer software and all Documentation.

**2. TERMS AND CONDITIONS**

1. Terms and Conditions. The terms and conditions of this Agreement shall be incorporated into every Contract described in Section 2(b) (Contracts) automatically and without further formalities as of the date such Contract takes effect and shall apply to all Services ordered by Buyer during the Term.
2. Contracts. Seller shall provide such Services, at the prices as set forth, Labor Categories and Pricing (the “Seller Rates”), as may be ordered by Buyer from time to time pursuant to a Contract. Services may be ordered under the terms and conditions of this Agreement solely by Buyer’s Authorized Procurement Representative. Each Contract will be effective upon its execution by an authorized representative of both Buyer and Seller. All Contracts hereunder shall be subject to the provisions of this Agreement. Such Contracts shall specify, as applicable:

(1) The Services and Work Product ordered.

(2) The price as calculated using the Seller Rates.

(3) The delivery schedule for the Services or Work Product, including any necessary implementation services.

(4) Acceptance Criteria and the Acceptance Period for the Services or Work Product.

(5) The Service Levels for the Services or Work Product.

(6) Any Seller Personnel requirements.

(7) The facilities from which the Services will be performed and any necessary equipment, tools or resources required to perform the Services.

(8) Any obligations of Boeing upon which successful completion of the Services is dependent.

(9) Any other information or details pertaining to the Services or Work Product as may be agreed to by the parties.

1. Objection. Neither party shall be bound by, and each specifically objects to, any term or condition that is different from or in addition to the provisions of this Agreement, unless such different term or condition is specifically agreed to by the parties in an applicable Contract. Any such Contract that modifies the terms of this Agreement shall identify the specific provisions of this Agreement (i.e., by Section reference) that are to be modified and the manner in which they are to be modified.
2. Exhibits. The following Exhibits are incorporated into this Agreement as if fully set out herein:

**Exhibit A** Form of Assignment

**Exhibit B** Form of Assignment

**Exhibit C** Terms of Use of Boeing Information and Electronic Systems Supplement

**Exhibit D** Supplement for the Security of Personal Data

**Exhibit E** On-Site Environment, Health and Safety Supplemental Provisions (SP4)

1. Order of Precedence. In the event of any inconsistency within or relating to this Agreement, the following order of precedence will apply:

(1) This Agreement.

(2) The Exhibits.

(3) Every Contract issued under this Agreement, including all Specifications, technical descriptions, statements of work, schedules, drawings, and designs attached thereto.

1. Other Buyer Entities. Seller agrees that any Buyer Affiliate may enter into a Contract under this Agreement. Seller agrees that the prices set forth herein may be disclosed by Buyer on a confidential basis to such Affiliates wishing to use this Agreement. Seller shall notify Buyer’s Authorized Procurement Representative of such Affiliates of Buyer that enter into a Contract under this Agreement.
2. Non-Exclusivity. Nothing in this Agreement requires Buyer to purchase Services from Seller. Buyer may obtain goods and services similar to the Services from a third party or third parties in Buyer’s sole discretion or perform such services internally. Buyer will not be obligated to obtain any of the Services from Seller with respect to any additional entity or business unit, including pursuant to an acquisition. However, Buyer will have the option to direct Seller to provide Services under and in accordance with the terms of any Contract entered into under this Agreement to service any such additional entity or business unit and, if such additional entity or business has an agreement with Seller for similar Services at the time of such acquisition, Seller will not impose any termination fees on Boeing or such entity in connection with the termination of such agreement.

**3. TERM**

This Agreement shall be effective from \_\_\_\_\_\_\_\_\_\_\_ through \_\_\_\_\_\_\_\_\_\_, unless earlier terminated in accordance with the terms hereof or by the mutual written consent of the parties (the “Initial Term”). Buyer has the option, but not the obligation, to renew the period of performance of this Agreement for successive [\_\_\_] year terms (each, a “Renewal Term” and along with the Initial Term, the “Term”). Buyer may renew the Agreement by written notice to the Seller prior to the expiration of the Initial Term. Notwithstanding the foregoing, in no event may Buyer unilaterally extend the Agreement beyond [five (5) years from the execution of this Agreement].

**4. PERFORMANCE OF THE WORK**

1. Tools and Materials. Seller shall perform the Services and deliver the Work Product at the Seller Rates. Except as otherwise set forth in an applicable Contract, Seller will use its own tools and equipment and shall provide the materials, as needed, to perform the Services. If any services, functions or responsibilities not specifically described in an applicable Contract are an inherent, necessary or customary part of the Services or are otherwise required for proper performance of the Services in accordance with this Agreement, they shall be deemed to be included within the scope of the Services, as if such services, functions or responsibilities were specifically described in such Contract. Before beginning any Services to be performed on Buyer’s premises, if applicable, Seller will provide Buyer a list (including description, quantity, and serial number) of Seller’s tools and equipment to be used in such Services. Before removing such tools and equipment from Buyer premises, Seller shall notify Buyer of such removal so that Buyer can issue documentation allowing such removal.
2. Facilities. Each Contract shall set forth the facilities of Buyer and/or Seller where the Services under such Contract will be performed, including if applicable, Buyer’s responsibility to provide Seller Personnel with office space, office facilities, equipment or other resources for Seller’s performance of the applicable Services.
3. Designated Representative. Before beginning any of the Services, Seller will notify Buyer in writing of the name of the person designated by Seller to represent and act for Seller with respect to the performance of the Services. Such designated representative shall be available throughout the period when any Services is performed on Buyer’s premises as reasonably necessary to complete the Services or as otherwise agreed to by the parties in an applicable Contract. Notwithstanding the provisions of Section 26 (Notices), during any such period of performance of Services on Buyer’s premises, Seller’s designated representative shall be authorized to receive on behalf of Seller all notices and other communications from Buyer to Seller.
4. Buyer Obligations. Buyer shall use commercially reasonable efforts to provide the resources to Seller expressly identified in this Agreement or an applicable Contract. Seller will not be responsible for delays in performance of the Services or the delivery of any Work Product which directly result from Buyer’s failure to provide such resources in a timely or complete manner.
5. Code Audit. Seller shall at its expense conduct an audit of the Work Product to identify any Open Source Software that may be present in the Work Product and shall provide the results of the audit to Buyer prior to providing the Work Product to Buyer. At no additional cost or expense to Buyer, Seller shall, and shall use reasonable efforts to cause its Employees to, cooperate with Buyer in any investigation that may be required to determine the origin of any code used in any Work Product. “Open Source Software” means any software that is “open source” or “copyleft” as those terms are commonly understood in the software industry, including any software that is: (i) distributed pursuant to a license or other agreement that requires licensees to disclose or otherwise make available the source code for any software incorporating or using such licensed software or developed using such licensed software, or to distribute or make available such software on terms specified in such license or agreement; (ii) subject to the GNU General Public License (GPL) or the GNU Lesser General Public License (LGPL) (in each case any version thereof) or any license approved by the Open Source Initiative (as of the date hereof set forth at http://opensource.org/licenses/index.html); or (iii) listed in the Free Software Directory maintained by the Free Software Foundation (in cooperation with the United Nations Education, Scientific and Cultural Organization (UNESCO)) (as of the date hereof set forth at <http://directory.fsf.org/>).
6. Software Application Vulnerability Assessments. Seller will proactively identify security flaws in the Work Product and provide Buyer with a summary report and security rating for each Work Product. Buyer expects that Seller will address all identified issues in a timely manner and in accordance with Buyer guidelines. Buyer is willing to discuss any vulnerability details that Seller shares and work together to address concerns.

(1) Implementation. Seller will provide and follow a set of secure coding guidelines recognized as commercially reasonable in the software industry and use a set of similarly recognized common security control programming interfaces. Guidelines will indicate how code should be formatted, structured, and commented. Common security control programming interfaces will define how security controls must be called and how security controls shall function. All security-relevant code shall be thoroughly commented. Specific guidance on avoiding common security vulnerabilities shall be included. Also, all code shall be reviewed by at least one other developer against the security requirements and coding guideline before it is considered ready for unit test.

(2) Security Analysis and Testing. Seller will perform application security analysis and testing (also called "verification") according to the verification requirements of an agreed-upon standard. Seller shall document verification findings according to the reporting requirements of the standard. Seller shall provide the verification findings to Buyer.

(3) The current information security coding verification recommendation is to use a static binary scanning service, using a Buyer approved vendor(s).

1. Governance. The parties will comply with the governance, relationship management and other provisions relating to the management of this Agreement as set forth herein, or as otherwise set forth in any Contract.
2. Service Level Agreements. Seller shall meet or exceed the Service Levels associated with the Services specified in an applicable Contract. The Contract shall specify, if applicable to the Services, (i) the Service Levels for the Services, including the applicable performance metrics, (ii) the service credits that Buyer shall be entitled to in the event Seller fails to meet the prescribed Service Levels or any other remedies for Seller’s failure to meet such Service Levels, (iii) any reporting tools to be used to measure the Service Levels, (iv) the parties obligations to provide performance reports pertaining to the Service Levels, and (v) any other terms or conditions related to the Service Levels.

**5. PRICES AND PAYMENT**

1. Price. All Services shall be performed at the Seller Rates. The Seller Rates set forth herein, labor categories and pricing, shall not be exceeded in any Contract for the Services ordered hereunder by Buyer during the Term. To ensure that the pricing of this Agreement is uniformly incorporated into all Contracts with Seller, Seller will monitor all of Buyer’s requests for quotations, proposals, or information and will ensure that the Seller Rates contained herein are consistently applied.
2. Invoices. All invoices will be in the form and include all content acceptable to, and as may be reasonably specified by, Buyer and will include, as appropriate, reference to the applicable Contract, a detailed description of the Services, and, any applicable fees calculated using the Seller Rates. All invoice amounts will be billed and payable in U.S. currency. Unless otherwise agreed to by Buyer, Seller shall use Buyer’s Shared Services Payables Network ("SSPN") for electronic invoicing and payables in accordance with the terms and conditions provided by Buyer to Seller.
3. Payment. Payment of all invoices will be made as set forth in an applicable Contract, or if no payment terms are specified, Buyer agrees to pay Seller within ninety (90) days of Buyer’s receipt of a correct invoice. Unless freight or other charges are itemized, any applicable discount may be taken on the full amount of the invoice. Payment due date, including discount periods, will be computed from Buyer’s receipt of a correct invoice to the date Buyer’s payment is mailed or otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of the amounts due to Seller.
4. Liens. Seller warrants that, on the date Buyer pays for all the Services delivered under this Agreement or any Contract hereunder, all liens, rights of lien, and claims against Buyer arising from or related to Seller’s provision of the Services will have been released or satisfied. On request, Seller will provide to Buyer certification, together with receipts, releases, or other satisfactory evidence in support thereof, stating that no such liens, right of lien, or claims exist on such date of payment.
5. Disputed Invoice Charges. If Buyer, in good faith and by the due date of the disputed invoice, disputes Seller’s computation of amounts due, Buyer may withhold payment of the disputed amount, but Buyer must pay all charges not in dispute by the invoice due date. An amount is not in dispute until Buyer has provided Seller with written documentation explaining the disputed amount and describing the factual and contractual basis therefore. Buyer and Seller will work in good faith to resolve any dispute following receipt of Buyer’s notice of dispute, including escalation to management as necessary. Upon resolution, disputed amounts are due and payable during Buyer’s next billing cycle.
6. Most Competitive Pricing. The parties recognize that, during the Term hereof, Seller may reduce its prices for competitive reasons, in order to reflect changes in technology, product line pricing, and market conditions. Seller intends to offer Buyer its Most Competitive Pricing for the Services purchased by Buyer hereunder. "Most Competitive Pricing" is that pricing which is similar to (within two percent (2%) of) the pricing offered by Seller to other corporate customers purchasing similar services in similar volumes. Accordingly, Seller will conduct an internal evaluation thirty (30) days prior to the end of each calendar year during the term of this agreement sufficient to determine and to certify to Buyer that labor categories and pricing reflects Seller's Most Competitive Pricing. At Buyer’s request, Seller will provide a certificate to Buyer in the form of a letter to Buyer from one of Seller's senior executives either (i) confirming that the labor categories and pricing is within the two-percent (2%) range required to constitute Most Competitive Pricing, or (ii) submitting to Buyer, for its approval, a revised labor categories and pricing reflecting appropriate price reductions to enable Seller to make such certification. Any revisions to the labor categories and pricing proposed by Seller hereunder will be finalized by the parties in an amendment thereto. The new Most Competitive Pricing will be effective retroactively, to the time that Seller began charging lower prices to another corporate customer purchasing similar services in similar volumes, and Seller will issue Buyer a retroactive credit for all fees paid by Buyer in excess of the Most Competitive Pricing.

**6. BENCHMARKING**

1. Factors. At Buyer’s election and with Seller's cooperation, the parties agree that in the event that Buyer determines, in its sole discretion, that an appropriate set of measurements exist, the parties shall undertake a benchmarking program that will determine the competitiveness of the Seller Rates during the course of this Agreement. The benchmarking program will compare the Seller Rates, the Services, Service Levels, and such other factors as the selected benchmarking firm deems appropriate (the "Benchmarking Factors") with that of a comparable peer group (as defined using the benchmarker’s methodologies with respect to the number of companies, the size of such companies and scope of services provided by such companies) and ensure that Seller's terms relating to the Benchmarking Factors are competitive (i.e., within the top twenty-fifth (25th) percentile of the peer group). Buyer may elect to benchmark not more than once during any period of twelve (12) consecutive months during the Term. The benchmark will cover, [at Buyer’s election, a particular category of Services] or all Services in the aggregate provided by Seller hereunder over a reasonable benchmark data period selected by Buyer given the length of time that the applicable Services have been utilized in the Buyer System.
2. Contract and Fees. Buyer will be responsible for the payment of the benchmarking fees, subject to Section 6(e) (Reports). Buyer will be responsible for contracting with the benchmarker, which the parties agree will be any benchmarking firm that Buyer selects that is not a competitor of Seller or its Subcontractors with respect to the provision of services similar to the Services. Buyer will be responsible for receiving and paying the benchmarker's invoices.
3. Cooperation. Buyer and Seller will work cooperatively with the benchmarker, making such personnel and information available as the benchmarker reasonably requests including, on a confidential basis, such party's charges, rates and any other information that the benchmarker deems appropriate and applicable. Each party will have the opportunity to advise the benchmarker of any information or factors that it deems relevant to the conduct of the benchmarking, so long as such information is either disclosed to the other party or, in the case of Proprietary Information marked by the disclosing party as being released only to the benchmarker, described in sufficient detail to describe the nature of the information.
4. Target. The benchmarker will rank the Seller's terms relating to the Benchmarking Factors against the services of such other service providers as the benchmarker deems appropriate (whether external services providers or internal service providers within Buyer or other companies) in order to compare pricing for like services. The Seller Rates will be deemed to be "not competitive" in the event that the pricing set forth as labor categories and pricing (with respect to the benchmarked Services) is not within the [twenty-fifth (25th) percentile] of the most competitive (lowest) price (with comparable services) within the peer group, the latter being the "Benchmark Target." Multiple processes for identification of peer groups and rankings may be utilized, as deemed appropriate by the benchmarker to assure comparability, if more than one category of Services is benchmarked.
5. Report. The benchmarker will provide reports on the benchmarking to both Buyer and Seller. If, as a result of any such benchmarking, the benchmarker determines that Seller's terms relating to the Benchmarking Factors are competitive, then no changes to the Agreement will occur. [If the benchmarking firm determines that Seller's terms relating to the Benchmarking Factors are not competitive, then Seller will propose to Buyer in writing: (i) a revision to labor categories and pricing, (referred to as "New Pricing") that reflects a prospective price reduction meeting the levels established by the benchmark as required to be within the Benchmark Target for each benchmarked category, (ii) a retroactive credit for fees paid by Buyer in excess of such New Pricing since the beginning of the benchmarked period, and (iii) a credit equal to all fees and charges for such benchmarking paid by Buyer under Section 6(b) (Contract and Fees). If Seller fails to timely submit its proposed New Pricing and such credits for approval in a manner that satisfies the Benchmark Target and otherwise complies herewith, then Buyer may terminate this Agreement for cause pursuant to Section 20 (Termination for Cause).]
6. Independent Provisions. The parties agree that Buyer will receive the lowest prices identified by application of the various price reduction methodologies specified in this Agreement. Accordingly, price reductions that might result from benchmarking under this Section 6 (Benchmarking) or Most Competitive Pricing under Section 5(f) (Most Competitive Pricing) will be calculated separately and the lowest cost pricing will apply. If application of the price reduction methodologies renders lower cost pricing than what is contained in labor categories and pricing, then labor categories and pricing will be revised as necessary to reflect the lower cost pricing.

**7. TAXES**

1. If any federal, state, or local sales or use tax (or its equivalent) is legally due on taxable Services purchased, Seller will separately bill such tax on its invoice to Buyer. Buyer agrees to pay Seller for such tax or if such tax is not applicable to the Services purchased, it will be so noted on the applicable Contract and Buyer shall provide appropriate exemption statements and information on such Contract acceptable to the taxing authority.
2. All other taxes, including, but not limited to federal, state, and local income taxes, franchise taxes, gross receipts taxes, federal, state, and local sales and use taxes, and property taxes shall be the responsibility of the party who incurs the tax liability.
3. For tax purposes, the items purchased under this contract by Buyer’s Shared Services Group, Supplier Management and Procurement department may be purchased for Buyer or as agent for one of Buyer’s subsidiaries.

**8. ACCEPTANCE OF SERVICES**

* Acceptance. Except as otherwise set forth in an applicable Contract, the parties shall adhere to the acceptance process as described herein for the acceptance of all Services under this Agreement.

(1) Acceptance Testing. Buyer will inspect and test all Services after delivery for compliance with the applicable Acceptance Criteria. Such inspection and testing shall be performed within the Acceptance Period in order to identify and resolve all material technical and operational impediments with the Services. Upon completion of such testing, Buyer shall issue to Seller notice of Acceptance or rejection of the Services. Buyer’s failure to reject the goods within the Acceptance Period shall constitute Acceptance of the applicable Services.

(2) Rejection and Cure. Buyer may reject Services if such Services fail to meet the Acceptance Criteria. In the event of such a rejection, Buyer shall give its reasons for rejection to Seller in writing with a description of deficiencies. In such event, Seller shall, at no additional charge to Buyer, correct any deficiencies and resubmit the rejected Services within the timeframe requested by Buyer or if no time frame is requested, as promptly as reasonably possible, until the Services are accepted. The acceptance process in this Section 8(a) (Acceptance) shall apply to any resubmitted Services, including a new Acceptance Period.

(3) Failure to Cure. In the event Seller is unable to cure a deficiency associated with a rejected Services after two attempts, Buyer may (i) grant Seller further time to cure the deficiency, or (ii) request a modification to this Agreement or Change Request to address the deficiency and continuation of this Agreement, or (iii) terminate all or part of this Agreement or a Contract pursuant to Section 20 (Termination for Cause).

* Minor Deficiency Correction. Notwithstanding Acceptance of any Services, Seller, at no additional charge to Buyer, shall correct or develop a work around for any minor deficiencies identified by Buyer. Seller shall correct or develop a work around for each minor deficiency within thirty (30) days after Buyer provides notice to Seller of the minor deficiency.
* Acts Not Constituting Acceptance. Trial use or testing of the Services, incremental or final payment, or Buyer acknowledgement of receipt does not constitute Acceptance or prejudice Buyer’s right to reject or revoke Acceptance of all or any portion of the Services.
* Secure Code Review. As a condition of Buyer’s acceptance of Goods; at least every two years from the date of Buyer’s acceptance of Goods; and within three months after every major version update to the Goods, Seller shall demonstrate to Buyer’s satisfaction either: (a) that the Goods contain no defects that exceed a Common Vulnerability Scoring System (“CVSS”) score of 6.0, as assessed by a third party assessment organization approved in writing by Buyer; or (b) that Seller’s secure development lifecycle is in substantial alignment with ISO 27034.

**9. LABOR AND PERSONNEL**

1. Qualified Employees. Seller shall perform all of the Services using qualified Employees satisfactory to Buyer. No Employee unsatisfactory to Buyer will be assigned to perform any of the Services. From time to time, Buyer may request and Seller shall provide resumes, references, or other information reflecting the qualifications of any Employee, either before or after he or she is assigned to perform Services. Seller and its Employees shall be properly licensed, certified, or registered in accordance with Applicable Law. A “qualified” Employee under this Section 9(a) (Qualified Employees) shall mean, in Buyer’s reasonable determination, an Employee that possesses the necessary knowledge, skills, experience and qualifications to provide and perform all Services in a diligent, workmanlike and professional manner in accordance with the terms of this Agreement, all Applicable Laws and best practices in the industry.
2. Replacements. Seller shall use all commercially reasonable efforts to ensure continuity of Employees and avoid excessive turnover of Employees. If any Employee is or becomes unsatisfactory to Buyer, Seller shall provide a qualified replacement satisfactory to Buyer in a timely fashion. If, despite its commercially reasonable efforts to do so, Seller is unable to provide a satisfactory replacement, Buyer may terminate the Services involved, in whole or in part. Termination of the work involved will be without any termination payment or other liability to Seller but only to the extent affected by the loss of Services that would have been performed by the unsatisfactory Employee.
3. Travel Expenses. Unless travel expense reimbursement is authorized in an applicable Contract, Seller shall be responsible for all expenses of its Employees who perform the Services, including without limitation travel to and from the place where the Services is to be performed, living expenses, and local transportation.

When travel expense reimbursement is authorized in the Contract. All invoices shall be submitted in such form and with such certification and evidence in support thereof as Buyer may reasonably require. No invoices for travel expenses shall be submitted by Seller except for expenses which have been authorized in advance by Buyer. Any travel expenses so authorized shall be governed by the following provisions:

(1) Per diem allowance or actuals (specified below) are applicable each day for all cities and cover all incidentals which are defined as:

(a) Meals

(b) Baggage handling

(c) Laundry

(d) Tips associated with meals and lodging

(e) $[\_\_] Per diem (per day) or actuals

(2) Original receipts are required for:

(a) Lodging (moderate priced) – actuals

(b) Tolls – actuals

(c) Airfare – actuals

(d) Airport parking – actuals

(e) Rental car (compact unless otherwise approved by Buyer) – actuals

(f) Taxi - actuals

(3) Air travel for:

(a) Domestic (coach) - actuals

(b) Foreign (business) - actuals

(4) Mileage allowance (specified below):

Applies to using personally owned vehicle from residence to airport if departing from or returning to that location or for business if authorized by Buyer

$[\_\_] Mileage (per mile in accordance with the Internal Revenue Service mileage reimbursable rate)

All invoiced items, such as travel, meals, hourly rates and other expenses shall be shown as separate line items on all invoices. All payments shall be subject to adjustments for amounts subsequently determined by Buyer, whether upon audit or otherwise, to have been improperly invoiced. Burden costs and/or handling charges added to expenses will not be accepted by Buyer.]

1. Subcontractors. Performance of the Services is a personal obligation of Seller and may not be subcontracted or otherwise delegated without the prior written consent of Buyer. Specification of a Subcontractor and that portion of the Services to be performed by it in any Contract shall constitute such consent. Nothing herein shall release, waive or modify any obligations Seller has under this Agreement. Seller shall be fully responsible for all acts and omissions of each Subcontractor and each Subcontractor's employees and agents, whether or not Seller itself was negligent or at fault, and any act or omission of any Subcontractor shall be deemed an act or omission of Seller hereunder. Seller shall ensure that each Subcontractor and each Subcontractor’s employees and agents comply fully with all provisions of this Agreement. Seller shall require each Subcontractor to enter into a confidentiality agreement to protect the Proprietary Information of Buyer under terms no less restrictive than those contained in this Agreement. Seller shall be responsible for all payments to its Subcontractors.
2. Notice to Buyer of Labor Disputes.

(1) Whenever an actual or potential labor dispute is delaying or threatening to delay the performance of this Agreement, Seller shall immediately give notice thereof to Buyer. Such notice shall include all relevant information with respect to such disputes.

(2) Seller agrees to insert the substance of Section 9(e) (Notice to Buyer of Labor Disputes) in any subcontract entered into pursuant to this Agreement as to which a labor dispute may delay the timely performance of this Agreement. The exception is that each subcontract shall provide that if its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the Subcontractor shall immediately notify its next higher tier Subcontractor or Seller, as the case may be, of all relevant information with respect to such dispute.

1. Compliance With Rules and Regulations. At any time when Seller Personnel are on Buyer’s premises, Seller, including its Employees, shall comply with:

(1) Buyer’s employee rules of conduct and other policies and procedures, including without limitation Buyer’s security and safety procedures, as provided by Buyer to Seller (including Buyer’s then-current ‘Service Provider Manual’) or as otherwise posted on the premises of Buyer in accordance with Buyer’s standard operating procedure.

(2) All Applicable Laws pertaining to such Buyer premises.

1. Non-U.S. Operations. Seller shall only permit the performance of Services by personnel outside of the U.S., whether its own operations or a Subcontractor, if expressly agreed to by the parties under an applicable Contract. In the event that the performance of Services by personnel outside of the U.S.is permitted under an applicable Contract, Seller shall remain liable and responsible for the performance of all such Services. Any transfer by Seller of Services to non-U.S. based operations and/or non-U.S. based Subcontractors other than as expressly permitted in a Contract, or any failure of Seller to fully and accurately disclose the extent and nature of such transferred Services under a Contract, shall constitute a material breach of this Agreement and Buyer may immediately avail itself of any and all rights and remedies to which it may be entitled under this Agreement, by law, or equity.
2. Services Week. Services performed under this agreement including proposals, pricing, and invoicing shall be based on a forty (40) hour work week for onshore Services and forty-five (45) hour work week for offshore Services, or as otherwise defined in an applicable Contract.

**10. WORK PRODUCT**

1. Inventions. All inventions, discoveries, and improvements, whether or not patentable, conceived, or first actually reduced to practice by Seller or Seller Personnel, either alone or with others, in the course of or as a result of performance of the Services shall be the sole and exclusive property of Buyer. Seller shall disclose or cause its Employees to disclose all such inventions, discoveries, and improvements to Buyer promptly and in written detail. At the request and the expense of Buyer, Seller shall assist or cause its Employees to assist Buyer in order to:

(1) Apply for letters patent in the United States and any foreign country specified by Buyer.

(2) Assign all such applications and any letters patents granted thereon to Buyer or its designee forthwith and without charge.

(3) From time to time, execute all instruments as may be reasonably required to protect the rights of Buyer or its designee and vest in Buyer or its designee all such inventions, discoveries, improvements, applications, and letters patents.

1. Technical Data and Computer Software. All technical data, including but not limited to all research and engineering data and designs, engineering and manufacturing drawings, Specifications, standards, process information, manuals, technical reports, in any form, first produced or resulting from performance of the Services, shall be the sole and exclusive property of Buyer and may be used, duplicated, or disclosed by Buyer or third parties authorized by Buyer in any manner and for any purpose whatsoever. All computer software, including but not limited to flow charts, listings, object code, source code, programmer’s notes, user manuals, and related Documentation, program materials, or information, in any form, first produced or resulting from performance of the Services, shall be the sole and exclusive property of Buyer and may be used, duplicated, or disclosed by Buyer or third parties authorized by Buyer in any manner and for any purpose whatsoever. Seller shall preserve all such technical data and computer software in confidence and shall not use, duplicate, or disclose any such technical data or computer software for any purpose, other than the performance of the Services or any other contract with Buyer, without the expressed written permission of Buyer.
2. Ownership and Assignment. Without limiting Section 10(a) above, all Work Product is a work made for hire of Buyer for all purposes of Intellectual Property law, and the rights to Work Product shall belong solely to Buyer. To the extent the Work Product is, as a matter of law, not a work made for hire; however, Seller hereby irrevocably assigns and shall assign to Buyer the rights to Intellectual Property subsisting in and to any Work Product and all the exclusive rights under such Intellectual Property rights, as set forth on Exhibit A – Form of Assignments. As evidence of such Intellectual Property rights assignment, Seller shall execute an assignment agreement, and cause Seller’s Employees to execute an assignment instrument, as set forth on Exhibit B – Form of Assignments, to this Agreement, with respect to the Work Product before allowing Seller’s Employees to perform any work under this Agreement. Seller will promptly deliver both assignment instruments to Buyer on execution. Buyer shall have the right to hold and register such Intellectual Property rights in its own name.
3. Special Power of Attorney. Buyer is hereby granted an irrevocable power of attorney for the limited purpose of executing and recording all such documents as are necessary to perfect the ownership and other rights granted to Buyer herein.
4. Pre-Existing Services. Each party shall retain and own all right, title and interest in and to its Pre-Existing Services. To the extent any Pre-Existing Services of Seller are contained in any of the Services, Seller hereby grants and shall grant to Buyer and its employees and agents an irrevocable, nonexclusive, worldwide, perpetual, fully paid, royalty-free license to practice any of the exclusive rights under the patents, copyrights, or trade secrets subsisting in such Pre-Existing Services to the extent they are included in the Services and/or necessary for Buyer’s enjoyment of the Services.
5. Third-Party Materials. Seller shall not include any third party Intellectual Property in the Services without first obtaining Buyer’s prior written consent, which Buyer shall give or withhold in its sole discretion. Upon Seller’s receipt of Buyer’s consent, Seller shall obtain the right for Buyer to use such third party Intellectual Property on commercially reasonable terms and conditions.

**11. PROPRIETARY INFORMATION**

1. Definition. For purposes of this Agreement, the term “Proprietary Information” means code or information that relates to and is disclosed by one party (the “originating party”) to the other (the “receiving party”) in connection with this Agreement and/or a Contract. When disclosed, such information must be in written or other permanent form (a “permanent record”) and be identified as proprietary to the receiving party by clear and conspicuous markings. Any such information in another form, when disclosed, shall be considered Proprietary Information only if and to the extent the originating party informs the receiving party of the proprietary nature of the information before the information is received. Thereafter, the originating party must create a permanent record of the disclosure, as described above, and deliver it to the receiving party promptly but in no event more than thirty (30) days after the original disclosure.
2. Disclosure and Use. The receiving party shall preserve Proprietary Information received from the originating party in confidence and shall refrain from disclosing Proprietary Information to any third party without written authorization from the originating party. The receiving party shall use Proprietary Information received from the originating party solely in connection with the receiving party’s performance of its obligations under this Agreement. The disclosure and use obligations set forth above shall be considered satisfied by the receiving party through the exercise of the degree of care, but in no event less than reasonable care, used to restrict disclosure and use of its own information of like kind and importance.
3. Exceptions. This Agreement shall not restrict disclosure or use of Proprietary Information that is

(1) Known to the receiving party without restriction when received or thereafter is developed independently by the receiving party without reference to Proprietary Information of the originating party.

(2) Obtained from a source other than the originating party through no breach of confidence by the receiving party.

(3) In the public domain when received or thereafter enters the public domain through no fault of the receiving party.

(4) Disclosed by the originating party to a third party without restriction.

(5) Required by applicable law or regulation, provided the receiving party notifies the originating party of the requirement promptly and cooperates with the originating party (at the request and expense of the originating party) in contesting the requirement.

1. No Other Rights Granted. Proprietary Information shall remain the property of the originating party. For the avoidance of doubt, the Work Product provided by Seller to Buyer under an applicable Contract shall be deemed the Proprietary Information of Buyer. Except for the rights expressly granted under this Agreement, neither this Agreement nor disclosure of Proprietary Information hereunder shall be construed as granting any right or license under any trade secrets, copyrights, inventions, or patents now or hereafter owned or controlled by either party. Nor does this Agreement grant any right or license or impose any restriction on use of disclosure with respect to information, other than Proprietary Information, disclosed or received by either party in connection with this Agreement.
2. Wind-up Activities. Upon expiration of termination of this Agreement, or earlier if requested by the originating party, and unless instructed to do otherwise by the originating party, the receiving party shall cease use of and destroy all of the Proprietary Information, if any, received from the originating party. The originating party may request, and the receiving party shall provide, written certification of the destruction. Notwithstanding the foregoing, each party may retain one copy of each and every permanent record of the Proprietary Information disclosed to it under this Agreement solely as a record of the disclosure.
3. Transfer of Employees. Seller acknowledges that Buyer is or may be using third-party programs, documentation, computing equipment, and other products that provide functionality and capabilities similar to those provided by the Services. Likewise, Buyer acknowledges that Seller is developing, or may desire to develop, new and improved products that address the needs and requirements of customers similar to Buyer. Notwithstanding any other provision of this Section 11 (Proprietary Information) of this Agreement, therefore, so long as each party does not knowingly disclose Proprietary Information received from the other party, each party may transfer and allow those employees who have had access to and reviewed the other party’s Proprietary Information under this Agreement to use the ideas, concepts, and know-how gained from such access in other assignments.
4. Security. In addition to the obligations set forth in this Agreement, including without limitation those obligations set forth in this Section 11 (Proprietary Information), Provider shall comply with the terms set forth on Exhibit C - Supplement for the Security of Buyer Information and Exhibit D - Supplement for the Security of Personal Data. In the event of a conflict between the terms of this Agreement and the terms of Exhibit C - Supplement for the Security of Buyer Information and Exhibit D - Supplement for the Security of Personal Data, the provisions that provide the greatest protection to Buyer’s Proprietary Information shall control.
5. Access to Buyer System. As part of its performance under this Agreement, Seller may have access to the Buyer System. Provider shall comply with the terms and conditions set forth on Exhibit E - Electronic Access Supplement.

**12. BUYER SYSTEMS AND RETAINED PROCESSES**

1. No Adverse Effect. Seller will use commercially reasonable efforts to ensure that:

(1) in providing the Services, it does not by any act or omission adversely affect or alter the operation, functionality, or technical environment of the Buyer Systems or the processes of Buyer or any Buyer service seller that are related to the Services described under an applicable Contract (the “Retained Processes”); and

(2) the systems and processes used to provide the Services interface and integrate with the Buyer Systems and Retained Processes.

1. Keep Informed. Buyer shall provide Seller with information, and Seller will inform itself, and keep itself informed, about all aspects of the existing and future Buyer Systems and Retained Processes as necessary to perform the Services and comply with its obligations under this Section 12 (Buyer Systems and Retained Processes).
2. Assistance. Seller will provide Buyer on request with services in relation to the Buyer Systems and Retained Processes affected by the Services, including liaising with Buyer, its service sellers or other third parties on the impact of any alterations to such Buyer Systems or Retained Processes. Seller will provide such services at no additional cost to Buyer if such services can be reasonably provided by Seller using the then-existing resources used to provide the Services without adversely affecting Seller’s ability to provide the Services in accordance with the terms of this Agreement; provided, however, that if such assistance requires additional resources beyond those used to provide the Services or if using such resources would adversely affect Seller’s ability to provide the Services in accordance with this Agreement, Seller will notify Buyer of such requirement or effect, demonstrate to Buyer’s reasonable satisfaction that additional resources are needed or that using such resources would adversely affect Sellers’ ability to provide the Services in accordance with this Agreement and, upon Buyer’s approval, provide such additional resources on a time and materials basis at the fees set forth on the labor categories and pricing.
3. Buyer Systems. Buyer will provide for Seller’s use in performing the Services those Buyer Systems, if any, as expressly set forth in an applicable Contract. Except as explicitly agreed otherwise by the parties in writing concerning other allowable uses and compensation to Buyer for such uses, all such Buyer Systems will be used by the Seller only for the purpose of providing the Services hereunder. Except for the Buyer Systems, Seller will be responsible for providing all other equipment, hardware, software, code, peripherals, high-speed connectivity, cabling, facilities and resources necessary to perform the Services unless otherwise set forth in an applicable Contract.

**13. INFRINGEMENT**

1. Infringement Indemnity. Seller shall defend, indemnify, and hold harmless the Indemnitees from and against all Losses arising out of or in connection with any third party Claims of actual or alleged infringement or misappropriation of any United States or foreign Intellectual Property Rights relating to the Services, the business methods used to provide the Services, and any system, software program, equipment, or other resource provided by or used by Seller or any of Seller Personnel to provide the Services. Buyer shall give Seller notice of all Claims made against the Indemnities and shall cooperate with Seller (at Seller’s expense) in the defense or settlement of such Claims.
2. Exclusions. Section 13(a) (Infringement Indemnity) does not apply to any Claim arising out of (i) the unauthorized modification, combination, operation, or use of the Services by Buyer or any of its subsidiaries to the extent the Claim would not have arisen had such modification, combination, operation, or use not occurred (except to the extent such modification, combination, operation or use is reasonable foreseeable by Seller given the intended use of the Services); (ii) the failure of Buyer to use any corrections or modifications provided by Seller to the extent Seller has given Buyer written notice that the implementation of such corrections or modifications are required to avoid infringement; or (iii) Seller’s adherence to detailed Specifications or other requirements provided by Buyer to the extent compliance with such detailed Specifications or other requirements caused the infringement. Nor does Section 13(a) (Infringement Indemnity) apply to profits or revenue lost by Buyer or any of its subsidiaries as a result of a permanent injunction contemplated by Section 13(d) (Final Relief).
3. Cure. As soon as Seller or Buyer has reason to believe a Claim is likely to be made against the Indemnitees under Section 13(a) (Infringement Indemnity), Seller shall, promptly and at its sole expense, use its commercially reasonable efforts to settle, avoid, or otherwise cure the Claim by one of the following procedures:

(1) Obtain a license for the Indemnitees to continue using the Services giving rise to the Claim in accordance with this Agreement.

(2) Modify such Services to make them noninfringing while maintaining the equivalent or better functionality, features, and performance.

(3) Replace such Services with a noninfringing product, either from Seller or another Seller, having the equivalent or better functionality, features, and performance.

The preceding procedures are set forth in order of precedence. Seller shall pursue each of these procedures in the order stated until the cure is accomplished. Buyer reserves the right, however, to direct Seller to attempt these procedures in a different order in the interest of minimizing the adverse impact of the cure on Buyer operations. These obligations are in addition to, not in lieu of, Seller’s obligations under Section 13(a) (Infringement Indemnity).

1. Final Relief. If, despite its commercially reasonable efforts to do so, Seller is unable to effect a cure under Section 13(c) (Cure) and a permanent injunction ordering the Indemnitees to cease or restrict further use of the Services is issued by a court of competent jurisdiction, either party may terminate the Contract under which the Services were ordered. The Contract may be terminated either in whole or in part, whereupon Buyer may return all or any portion of the Services to Seller for a full refund. Any license granted under this Agreement with respect to the returned Services will terminate as of the effective date of the termination. Any termination under this Section 13(d) (Final Relief) is not a termination for cause. Nor will any such termination relieve Seller of its accrued obligations under the Section 13(a) (Infringement Indemnity).

**14. CHANGES**

**Only Buyer’s Authorized Procurement Representative may approve changes in any requirements under any Contract**. Buyer’s Authorized Procurement Representative may, from time to time, in writing (a “Change Request”) direct changes to this Agreement or any Contract in any one or more of the following:

1. Technical requirements and descriptions, Specifications, statements of work, drawings, or designs.
2. Shipment or packing methods.
3. Place of delivery, inspection, or Acceptance Criteria.
4. Reasonable adjustments in quantities or delivery schedules or both.
5. Amount of Buyer-furnished property.
6. Any other changes that modify the scope of this Agreement or an applicable Contract.

Seller shall comply with such direction upon execution by both parties of a written amendment to the Agreement or such Contract and avoid unnecessary costs related thereto. If any such change increases or decreases the cost of or the time required to perform this Agreement or any Contract, an equitable adjustment in the prices and schedules of this Agreement or the applicable Contract shall be made to reflect such increase or decrease, and the applicable Contract shall be modified accordingly in writing. Unless otherwise agreed in writing, Seller shall submit any claims for adjustment under this Section 14 (Changes) within thirty (30) days after receipt of such direction. Failure of Buyer and Seller to agree to any adjustment shall not excuse Seller from performing in accordance with the unmodified Agreement or Contract.

**15. COMPLIANCE**

1. With Federal, State, and Local Laws. Seller warrants that, in performance of its obligation under this Agreement, it has complied with or will comply with Sections 6, 7, and 12, Fair Labor Standards Act, as amended, and the regulations and contracts of the U.S. Department of Labor issued thereunder. The Equal Opportunity clause set forth in FAR 52.222-26 is incorporated herein by reference, except “Contractor” means Seller. On request, Seller shall submit certification that the Services were performed in accordance with the foregoing warranty.
2. Compliance with Laws. Seller shall be responsible for complying with all Applicable Laws in connection with its performance under this Agreement. Seller further agrees:

(1) To notify Buyer of any obligation under this Agreement that is prohibited under any applicable environmental law at the earliest opportunity but, in all events, sufficiently in advance of Seller’s performance of such obligation so as to enable the identification of alternative methods of performance.

(2) To notify Buyer at the earliest possible opportunity of any aspect of its performance that becomes subject to additional environmental regulation or that Seller reasonably believes will become subject to additional environmental regulation during performance of this Agreement.

1. Export Control Laws. Seller is solely responsible for complying with any and all export or import laws or regulations with respect to the performance of the Services, including its use, maintenance and disclosure of any materials and information provided by Buyer under this Agreement or an applicable Contract ("Buyer Materials"). Seller acknowledges that the Buyer Materials may contain technical data or elements such as "encryption items", the export and re-export of which may be restricted to certain destinations and end users as a result of license restrictions, laws, rules and regulations. Upon Seller’s request, Buyer shall provide notice to Seller to the extent that Buyer has obtained export classifications, approvals or licenses for any Buyer Materials. Seller agrees that it will comply in all respects with all applicable U.S. export regulations, rules and laws, including the Export Administration Regulations promulgated by the U.S. Department of Commerce and codified a 15 C.F.R. §§ 730-774, the regulations pertaining to sanctions programs and Specially Designated Nationals and Blocked Persons ("SDN List") administered by the U.S. Department of the Treasury, and all other similar applicable rules, regulations and statutes promulgated, administered or enforced by any U.S. government agency (collectively, "Export Control Laws"). The Buyer Materials may not be downloaded, or otherwise transmitted, exported or re-exported (i) into, or to a national or resident of, any country to which the U.S. has an embargo on goods and services, including Cuba, Iraq, Iran, Libya, North Korea, Libya, Sudan, Syria; or (ii) to anyone on the SDN List or the U.S. Commerce Department's Denied Persons, Denied Entities, and Unverified List; or (iii) to any other place or person who is, to Seller's actual knowledge, otherwise prohibited by the Export Control Laws from receiving the Buyer Materials. Without limiting the foregoing, Seller agrees that it will not export or re-export the Buyer Materials to any destination or end user without making or obtaining all necessary submissions, filings, export licenses or other governmental permissions required under any applicable export regulation, rule or law.

**16. WARRANTIES**

Seller represents, warrants and covenants that:

1. Performance. Seller has the right to enter into and perform its obligations under this Agreement, including without limitation the right to deliver, pass title to, and grant a license with respect to the Services.
2. Legal Sufficiency. Seller and each of its Subcontractors have taken all necessary steps, including without limitation obtaining written agreements for all Employees, legally sufficient to perform its obligations under Section 10 (Work Product).
3. Media Defects. The media on which Work Product is provided to Buyer shall be free of defects in material and workmanship.
4. Conformance to Requirements. All Work Product shall conform in all respects to the Specifications and to all of the requirements of this Agreement or applicable Contract, including any Documentation provided by Seller to Buyer.
5. Manufacturer Warranties. Seller shall pass on to Buyer for Buyer’s enforcement, all manufacturer warranties if applicable to the Services.
6. Program Errors. The Services shall be free of any errors that have or may have substantial adverse impacts on the operations of Buyer or on the use of the Services, including, but not limited to, viruses, malicious code, trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to (i) damage, destroy, or alter any software or hardware; (ii) reveal, damage, destroy or alter any data; (iii) disable any computer program automatically; or (iv) permit unauthorized access to any software or hardware.
7. Compatibility. The Services shall be compatible with the operating system, application programs, computing equipment, and networks contemplated by the Specifications or the applicable Contract.
8. Legal Right. Seller has the legal right to enter into, and perform its obligations under this Agreement, including without limitation, the right to deliver and pass title to the Services.
9. Open Source Software. No software provided as part of the Work Product shall contain any Open Source Software, except as disclosed by Seller to Buyer in accordance with Section 4(e) (Code Audit).
10. EXCEPT AS SET FORTH IN THIS AGREEMENT OR OTHERWISE SPECIFIED IN AN APPLICABLE CONTRACT, SELLER MAKES NO WARRANTIES TO BUYER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY GOODS PROVIDED HEREUNDER OR UNDER ANY CONTRACT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED BY THE SELLER.

**17. RESPONSIBILITY FOR CLAIMS**

1. Indemnification, Negligence of Seller or Subcontractor. Seller shall indemnify and hold harmless the Indemnitees from and against all Losses arising out of or in connection with any third party Claims for property damage, personal injury, or death (including without limitation injury to or death of Employees of Seller) arising out of or in any way related to the Agreement or the performance or failure to perform thereof by Seller or Seller Personnel, including without limitation the provision of services, personnel, facilities, equipment, support, supervision, or review. The foregoing indemnity shall apply only to the extent arising out of the negligent acts or omissions or willful misconduct of Seller or Seller Personnel.
2. Insurance; Notice. In no event shall Seller’s obligations hereunder be limited to the extent of any insurance available to or provided by the Seller or any Subcontractor. Seller expressly waives any immunity under industrial insurance, whether arising from Title 51.04.010 et seq. of the Revised Code of Washington or any other statute or source, to the extent of the indemnity set forth in this Section 17(a) (Indemnification, Negligence of Seller or Subcontractor). Buyer shall (i) notify Seller in writing of any Claim as soon as practicable upon learning of same, (ii) give the Seller the opportunity, and authority, to defend, settle or participate in the defense or settlement of the Claim, and (iii) provide to Seller reasonable requested assistance (at Seller’s expense).
3. Subcontractor Indemnification. If any Subcontractors or their employees will have a presence on Buyer’s premises in connection with the performance of the Services, Seller shall require each Subcontractor to provide an indemnity enforceable by and for the benefit of the Indemnitees to the same extent required of Seller under this Section 17(a), (Indemnification, Negligence of Seller or Subcontractor).

**18. SELLER’S INSURANCE**

1. Commercial General Liability. Throughout the period when work is performed and until final acceptance by Buyer, Seller shall carry and maintain, and ensure that all Subcontractors carry and maintain, Commercial General Liability insurance with available limits of not less than One Million Dollars ($1,000,000) for each occurrence, for bodily injury and property damage combined. Such insurance shall be in a form and with insurers acceptable to Buyer and shall contain coverage for all premises and operations, broad form property damage, and contractual liability (including, without limitation, that specifically assumed under this Section 18(a) (Commercial General Liability)). Such insurance shall not be maintained for each project unless the respective Seller or Subcontractor does not maintain blanket coverage.
2. Automobile Liability. If licensed vehicles will be used in connection with the performance of the Services, Seller shall carry and maintain, and ensure that any Subcontractor who uses a licensed vehicle in connection with the performance of the Services carries and maintains, throughout the period when Services 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 liability of not less than One Million Dollars ($1,000,000) for each occurrence combined single limit for bodily injury and property damage.
3. Workers’ Compensation. Seller shall, throughout the period when work is performed and until final acceptance by Buyer, carry and maintain, and ensure that all Subcontractors carry and maintain, insurance in accordance with the applicable laws relating to workers’ compensation covering all of their respective Employees working on or about Buyer premises. If Buyer is required by any applicable law to pay any workers’ compensation premiums with respect to Employee of Seller or any Subcontractor, Seller shall reimburse Buyer for such payment.
4. Certificates of Insurance. Before commencing the Services, Seller shall provide for Buyer’s review and approval Certificates of Insurance reflecting full compliance with the requirements set forth in Section 18(a) (Commercial General Liability), Section 18(b) (Automobile Liability), and Section 18(c) (Workers’ Compensation), as applicable. 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 thirty (30) days advance written notice to Buyer in the event of termination. Failure of Seller or any Subcontractor 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 the respective Seller’s or Subcontractor’s obligations hereunder.
5. Self-Assumption. Any self-insured retention, deductibles, and exclusions in coverage in the policies required under Section 18 (Seller’s Insurance) shall be assumed by, for the account of, and at the sole risk of Seller or the Subcontractor that provides the insurance and, to the extent applicable, shall be paid by such Seller or Subcontractor. In no event shall the liability of Seller or any Subcontractor be limited to the extent of any of the minimum limits of insurance required under Section 18 (Seller’s Insurance).

**19. TERMINATION FOR CONVENIENCE**

1. Termination. Buyer may terminate this Agreement or any Contract, in whole or in part, by providing at least thirty (30) days prior notice of such termination to Seller, that specifies the extent and effective date of such termination thereof. On the specified termination date Seller shall:

(1) Stop Services under this Agreement or the applicable Contract to the extent specified in the termination notice.

(2) Cease shipment of all Services covered by the termination notice, other than those already delivered and accepted in accordance with this Agreement, as of the termination date specified in the termination notice.

1. Effect of Termination. In the event and to the extent of any termination under this Section 19 (Termination for Convenience), all obligations of Seller and all rights of Buyer under this Agreement or the applicable Contract shall thereupon be terminated, but only with respect to the Services covered by the termination notice. Seller shall continue to perform those obligations under this Agreement or any other Contract to the extent not terminated.
2. Termination Payment. In the event and to the extent of any termination under Section 19 (Termination for Convenience), Buyer’s total liability shall be to pay Seller for the terminated Services that has then been performed and for which Seller has not been previously compensated. Seller shall have no claim against Buyer for Services not performed, Services not delivered, loss of anticipated profits, or consequential damages suffered by reason of any such termination. Any claims by Seller for compensation under Section 19 (Termination for Convenience) must be delivered to Buyer within sixty (60) days after Seller’s receipt of Buyer’s notice of termination. Seller hereby waives, releases, and renounces any claim for compensation not made within this period.

**20. TERMINATION FOR CAUSE**

1. Termination by Buyer. Buyer may terminate this Agreement or any Contract, in whole or in part, to the extent Seller fails to perform any of its material obligations under this Agreement or an applicable Contract and does not cure the failure within thirty (30) days after service of a default notice that specifies the failure.
2. Termination by Seller. Seller may terminate this Agreement upon an uncured payment default by Buyer that is not being contested by Buyer in good faith and that continues for one hundred and twenty (120) consecutive days after Buyer’s receipt of Seller’s written notice thereof. Buyer’s failure to pay any amount under the Agreement that Buyer disputes in good faith in accordance with Section 5(e) (Disputed Invoice Charges) shall not give Seller a termination right hereunder. Seller acknowledges that Seller may only terminate this Agreement under this Section 20(b) (Termination by Seller) and Provider expressly waives any other rights it may have to terminate this Agreement.
3. Effect of Termination. In the event and to the extent of any termination under this Section 20 (Termination for Cause), all obligations of Buyer and all rights and licenses of Seller under the applicable Contract shall thereupon be terminated, and all rights and licenses of Buyer and all accrued obligations of Seller under the applicable Contract shall survive, but only with respect to the Services covered by the termination notice. Seller shall continue to perform those obligations under this Agreement or any Contract to the extent not terminated.
4. Termination Payment. In the event of termination for cause by Buyer, Seller shall have no claim against Buyer for any Services not accepted by Buyer or for the terminated Services that has then been performed and for which Seller has not been previously compensated. In the event of termination for cause by Seller, Buyer’s total liability shall be to pay Seller the outstanding payments giving rise to Seller’s termination right. The applicable party shall submit any claims for compensation under this Section 20 (Termination for Cause) within thirty (30) days after the effective date of the termination.
5. Termination for Convenience. If, after issuance of a default notice under Section 20(a) (Termination by Buyer), it is determined for any reason that Seller was not in default or that the default was excusable under the provisions of this Agreement, then there will be no termination for cause. The Agreement or applicable Contract will be deemed to have been terminated for convenience in accordance with the provisions of Section 19 (Termination for Convenience) as of the date the termination would have taken effect under this Section 20 (Termination for Cause).

**21. TRANSITION OF SERVICES**

1. Services Transfer. Upon expiration or termination of the Agreement or any Contract or portion thereof, for any reason, Seller shall assist Buyer in the orderly transfer of the services, functions, responsibilities, tasks and operations comprising the Services including, without limitation, Work Product and other related information or data ("Transition Services") as further described in this Section 21 (Transition of Services). The Transition Services shall consist of providing Buyer and its respective agents, contractors and consultants, as necessary, for a period of up to [twelve (12) months (as requested by Buyer), or longer as mutually agreed upon by the parties] following the expiration or termination of this Agreement for any reason (the "Transition Period"), with the ongoing provision of the Services in compliance with the terms and conditions of this Agreement including the Service Levels, plus cooperation with and assistance to Buyer, Buyer’s consultant(s), and other advisors, and/or any substitute service sellers designated by Buyer in connection with the transfer of the affected Services to Buyer and/or such substitute outsourced service sellers, including without limitation:
2. providing in a timely manner all information reasonably necessary to transfer the Services, including without limitation inspection of Seller’s facilities used to provide the Services, a complete and accurate description of the quantity and configuration of all Seller software used in the provision of the Services and a complete description of the Services being provided;
3. granting licenses to Buyer and its designees to Seller's Intellectual Property that is necessary for Buyer to perform the Services itself or obtain the Services from one or more substitute service sellers;
4. granting or assigning to Buyer and its designees licenses to third party Intellectual Property to the extent requested by Buyer, provided that Seller is legally able to do so; and
5. providing a complete and correct copy of all data files created or maintained as part of the Services in a mutually agreed format. With respect to Transition Services, this Agreement shall not be deemed to have expired or terminated until the Transition Services requested by Buyer are completed.
6. Transition Services Charges. Seller shall perform the Transition Services at no additional cost to Buyer other than Buyer’s obligation to continue to pay the fees for the Services as specified in the labor categories and pricing. Seller shall provide the Transition Services in accordance with this Section even in the event of Buyer’s material breach, with or without an attendant termination for cause by Seller.
7. Presence at Facilities. The parties acknowledge that a continued presence of each party at the other party's facilities during the period in which Transition Services are being provided would be mutually beneficial. In the event that Buyer requests Seller to provide staffing at Buyer’s facilities, Seller shall do so. In addition, Seller shall permit Buyer’s employees to enter and remain at Seller’s facilities upon Buyer’s reasonable request. If the presence of Seller at Buyer’s facilities requires Seller to use resources beyond those being provided to perform the terminated Services, then Seller shall notify Buyer of the identity and scope of the activities, and Buyer shall pay Seller for such resources after a mutual agreement is reached pursuant to the Section 14 (Changes).

**22. RELATIONSHIP OF THE PARTIES**

1. Independent Contractor. Seller is an independent contractor. Nothing in this Agreement shall be construed as creating any relationship between Buyer and Seller other than that of buyer and seller or licensee and licensor, respectively. This Agreement is not intended to be nor shall it be construed as a joint venture, association, partnership, franchise, or other form of business organization or agency relationship.
2. No Agency. Neither party shall have any right, power, or authority to assume, create, or incur any expense, liability, or obligation, expressed or implied, on behalf of the other, except as expressly provided herein.
3. Employees. Seller Personnel who perform Seller’s obligations under this Agreement shall at all times be and remain employees of Seller, not employees of Buyer. Seller shall pay Seller Personnel and shall ensure that each of its Subcontractors pays its employees all wages, salaries, and other amounts due to such employees. Seller shall be responsible for and shall ensure that each of its Employees shall be responsible for all reports, payments, and other obligations in regard to their respective employees, including, without limitation, those related to social security, income tax withholding, unemployment compensation, workers’ compensation, and employee benefit plans.

**23. DISASTER RECOVERY; FORCE MAJEURE**

1. Disaster Recovery. If a disaster or catastrophe, whether resulting from natural or man-made causes, totally or partially disables Buyer’s computing or telecommunications capability, Seller agrees to use its commercially reasonable efforts to aid in the prompt restoration of computing or telecommunications capability. Unless otherwise specified in a Contract, such restoration will include but is not limited to furnishing emergency replacements of Services on request by overnight delivery, providing maintenance services, and providing technical assistance to Buyer in its attempts to recover data. Buyer shall be treated at least as favorably as Seller’s most favored customer when a disaster or catastrophe affects others. Buyer and Seller shall negotiate in good faith to provide reimbursement to Seller for the actual costs of time, materials, and shipping involved in such emergency response.
2. Force Majeure. To the extent either party for any period is prevented, hindered or delayed from performing any obligations under this Agreement, in whole or in part, as a result of fire, flood, earthquake, elements of nature, an act of God or the public enemy, war, civil disturbance, acts of government in its sovereign or contractual capacity, labor dispute, embargo, epidemic, quarantine or other similar unforeseeable cause beyond such party's reasonable control (each, a "Force Majeure Event"), and such non-performance, hindrance or delay could not have been prevented by reasonable precautions, then the non-performing, hindered or delayed party will be excused for such non-performance of those obligations affected by the Force Majeure Event for as long as such Force Majeure Event continues to prevent, hinder or delay performance and such party continues to use commercially reasonable efforts, at its sole expense, to recommence performance whenever and to whatever extent possible without delay, including, as applicable, through the use of alternate sources, workaround plans or other means. This Section 23(b) (Force Majeure) does not limit or otherwise affect Seller’s obligation to provide disaster recovery services in accordance with Section 23(a) (Disaster Recovery) to the extent that a Force Majeure Event does not also prevent Seller’s provision of the Services from its recovery center(s). Whenever either party has knowledge that any circumstances may result in a Force Majeure Event, such party will promptly notify the other party of all relevant information and will continue notification of any material change in the situation. The excused time period for nonperformance will be limited to the duration of the Force Majeure Event. If the Force Majeure Event continues for more than fourteen (14) days, then Buyer will have the right to terminate all or a portion of this Agreement or an applicable Contract immediately, without penalty, upon delivery of written notice.

**24. RECORDS AND AUDIT**

For a period no less than three (3) years after final payment under each Contract under this Agreement, Seller shall maintain complete and accurate books, records, documents, and other evidence of the time worked, costs, expenses, and allowances pertaining to this Agreement (hereinafter collectively called “records”). These books, records, documents, and other evidence shall be maintained to the extent and in such detail as will properly reflect all net costs (direct and indirect) of labor, materials, equipment, supplies, and services and other costs and expenses of whatever nature. Buyer shall have the right to examine, reproduce, and audit any and all records related to the following:

1. Pricing and performance in order to evaluate the accuracy, completeness, and currency of cost and pricing data submitted with Seller’s bid or offer to sell.
2. Section 14 (Changes), Section 19 (Termination for Convenience), and Section 20 (Termination for Cause).
3. Pricing and performance in order to verify the accuracy of prices and rates invoiced by Seller. Such audit right for any given Contract will consist of the following:
4. A random invoice sampling of at least five percent (5%).
5. The determination of an error rate, if any.
6. The calculation of an adjustment amount by applying the percentage error rate to the total current aggregate dollar expenditure figure for the entire time period in question and then adding approximate freight and tax considerations.

**25. PROTECTION OF PROPERTY**

Unless otherwise specified in an applicable Contract, on delivery to Seller or manufacture or acquisition by Seller of any materials, parts, tooling, data or other property, in which Buyer holds title, Seller assumes the risk of and shall be responsible for any loss thereof or damage thereto. In accordance with the provisions of the applicable Contract, but in any event on delivery of the Services, Seller shall return such property to Buyer in the condition in which it was received. Exceptions will be for reasonable wear and tear and such property as has been reasonably incorporated in the Services or consumed in the performance of this Agreement.

**26. NOTICES**

Any notice, authorization, designation, request, or instruction under or in connection with this Agreement to be effective shall be in writing and shall be deemed duly given or served on delivery, addressed as set forth below. Either party may notify the other in the foregoing manner of any other address to which such communications are to be addressed under this Agreement.

Seller: Buyer:

The Boeing Company

Shared Services Group

Supplier Management

\_\_\_P.O. Box Number or Street Address\_\_\_

\_\_\_City, State, and Zip Code\_\_\_

Attention: Attention:

1. **USE OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS**

It is the policy of Buyer to actively seek out and provide small business concerns and small disadvantaged business concerns with the maximum practicable opportunity to participate in and compete for Buyer procurements of goods and services. The Seller hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Seller, acting in good faith, may rely on written representations by their subcontractors regarding their status as either a small business concern or a small disadvantaged business concern.

**28. INDUSTRIAL PARTICIPATION - OFFSET CREDITS**

1. 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 Agreement. Seller shall provide documentation or information which Buyer or its assignees may reasonably request to substantiate claims for industrial benefits or offset credits.
2. Seller agrees to use reasonable efforts to identify the foreign content of Services or Work Product that Seller either produces itself or procures from Subcontractors for work directly related to this Agreement. Subject to the other provisions of this Agreement, promptly after selection of a non-U.S. Subcontractor for work under this Agreement, Seller shall notify Buyer of the name, address, subcontract point of contact (including telephone number) and dollar value of the subcontract.
3. These terms, as applicable and attached hereto, Industrial Participation/Offset Credit Assistance, shall be incorporated herein by this reference and Seller shall comply with the requirements therein.

**29. NONCOMPETITION**

With respect to any Seller Personnel that has or may have access to Buyer Proprietary Information, Seller will not assign such Seller Personnel to the account of any direct competitor of Buyer as listed herein: (a) without Buyer’s prior consent while such Seller Personnel is providing Services to Buyer nor (b) except as may otherwise be agreed by the parties in writing, for one (1) year after such Seller Personnel ceases to provide Services for Buyer. During the Term of this Agreement, and for one (1) year after the expiration or termination hereof, neither party will employ or solicit for employment, directly or through a third party, any of the other party’s employees with whom such party interacted in the course of such party’s performance hereunder. Notwithstanding the foregoing, a party’s general, non-targeting advertising of available employment positions in the ordinary course shall not be prohibited under this Section 31 (Noncompetition).

**30. VALUE PROPOSITION**

Buyer expects a successful sourcing Seller’s business process value proposition to extend beyond cost reductions related to labor rates. Sellers must utilize cost-saving world class process improvement methodologies such as CMMI Level 5 and lean process improvement strategies to streamline or transform business processes, and create an interaction model that does not drive added cost within Buyer for administration or infrastructure. Savings from these quality improvement initiatives drive reductions in Seller operation costs that can be passed on to Buyer.

**31. BUSINESS DOWNTURN**

The parties agree that, in the event that Buyer experiences a business downturn beyond its control, Buyer may wish to request an adjustment to the Agreement as opposed to exercising its right to terminate for convenience. In such event, Seller and Buyer will cooperate in developing an arrangement to address the business downturn. The arrangement may include a revision to the Seller Rates, an applicable Contract, Service Levels, Term or other provisions. To invoke this provision, Buyer will notify Seller in writing that it has experienced a business downturn and will suggest changes to address the downturn. In relation thereto, Buyer may prepare a Change Request under Section 14 (Changes).

**32. DIVESTITURES**

If Buyer sells or otherwise transfers control of any of its divisions, sites or portion thereof, Seller agrees that, upon prior written notice to Seller describing the transaction in reasonable detail, Seller shall continue to provide the Services under an applicable Contract with respect to the divested division, site or portion thereof as provided in this Agreement for a period of up to eighteen (18) months at no additional charge. Thereafter, continued use of the Service by the divested division, site or portion thereof shall be subject to such terms and conditions as Seller and the divested division, site or portion thereof or its new owner shall agree in writing.

**33. GOVERNING LAW**

**This Agreement shall be construed under and governed by the laws of the State of Delaware, without regard to the conflict of law provisions.** The prevailing party in any litigation arising from this Agreement shall be entitled to recover its reasonable attorneys’ fees and costs from the losing party.

**34. GENERAL PROVISIONS**

1. Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.
2. Assignment. Neither this Agreement nor any obligations under it may be assigned or delegated by either party without the prior written consent of the other party.
3. Publicity. Seller shall not use the name of Buyer in any news release, public announcement, advertisement, or other form of publicity or disclose any of the terms of this Agreement to any third party without securing the prior written consent of Buyer.
4. Survival. Except for any licenses expressly terminated, all licenses granted under this Agreement, all indemnities, warranties and representations made under this Agreement, and all accrued obligations under Section 10 (Work Product) and Section 11 (Proprietary Information) will survive termination of this Agreement. Cancellation or termination of this Agreement or any Contract will not affect operation of those provisions of this Agreement which, by their terms, survive or are required to survive in order to effectuate the intent of the parties as reflected by this Agreement.
5. Third-Party Beneficiary. Every subsidiary of Buyer is an intended third-party beneficiary of this Agreement with rights of enforcement.
6. Rights and Remedies. Except as limited under this Agreement, the rights and remedies afforded to each party under this Agreement are in addition to any other rights and remedies at law or in equity or otherwise.
7. Right to Offset. Buyer, without waiver or limitation of any of its rights or remedies, shall be entitled from time to time to deduct from any amounts due or owing by Buyer to Seller in connection with this Agreement any and all amounts owed by Seller to Buyer in connection with this Agreement.
8. Waiver. Either party’s failure to exercise any of its rights under this Agreement shall not constitute a waiver of any past, present, or future right or remedy.
9. Acknowledgment. Seller acknowledges that it has not been induced to enter into this Agreement by any representations or promises not specifically stated in this Agreement and that the provisions of this Agreement (including without limitation Section 13 (Infringement)) have been negotiated by the parties.
10. Amendments. These terms and conditions may not be changed, amended, or modified, except by an amendment in writing, executed by the Buyer’s Authorized Procurement Representative and an authorized representative of Seller.
11. Financial Review. If any 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.
12. 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 “Code”). The Code may be downloaded at <http://www.boeing.com/principles/human-rights.page>. Buyer strongly encourages Seller to adopt and enforce concepts similar to those embodied in the 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 Code.

Any material breach of this provision by Seller may be considered a major breach of this Contract for which Buyer may elect to terminate any open Contracts between Buyer and Seller for cause under Section 20 (Termination for Cause) or exercise any other right of Buyer for an event of default under this Contract.

1. Counterparts; Facsimile Signature. This Agreement or any Contract hereunder may be executed in counterparts and by exchange of signature pages by facsimile or other electronic means. Each such counterpart shall be an original and together shall constitute but one and the same document.
2. Disputes. In the event of a dispute arising under or related to this Agreement, Seller shall proceed with performance of all Services under a Contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.

**35. COMPLETE AGREEMENT**

This Agreement, including all Exhibits and any Contract entered into pursuant to this Agreement, contains the complete and exclusive statement of the terms of the agreement between Buyer and Seller with respect to the Services and supersedes and merges any prior or contemporaneous agreements, commitments, proposals, representations, or communications, oral or written, with respect to the Services.

[Remainder of page intentionally left blank. Signature page follows.]

**IN WITNESS HEREOF**, the parties have caused this Agreement to be executed in duplicate originals by their duly authorized representatives.

THE BOEING COMPANY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Acting through its division

Boeing Shared Services Group)

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EXHIBIT A

ASSIGNMENT

(with power of attorney)

 WHEREAS, The Boeing Company (Buyer) has engaged \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Seller) to act through certain of its employees, subcontractors, and/or employees of subcontractors (Personnel) in the performance of services for Buyer and such services may involve the creation of certain works of authorship (Work Product).

 THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby sells, assigns, and transfers to Buyer and to Buyer’s lawful successors and assigns its entire right, title and interest in and to the Work Product, together with the right to register the copyrights (Copyrights) therein, the Work Product and the Copyrights to be held and enjoyed by Buyer as the assignee for the use and benefit of itself and its successors, and assigns as fully and entirely as the same would have been held and enjoyed by Seller had this assignment not been made.

 FURTHER, Seller grants to Buyer an irrevocable special power of attorney for the limited purpose of perfecting the formal assignment of the Copyrights through the execution and recording of such instruments as are reasonably necessary for that purpose, including but not limited to recordable assignment documents, copyright registration applications, UCC security interest recordings, and the like.

**Executed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, this \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.**

CORPORATE SEAL

 Seller

STATE OF WASHINGTON )

 ) ss.

COUNTY OF KING )

On this day personally appeared before me \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to me known to be the individual who executed the foregoing instrument, who acknowledged that he or she is authorized to execute the foregoing instrument on behalf of Seller and affix its corporate seal thereto and who further acknowledged that he or she executed the foregoing instrument on behalf of Seller, as its free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this \_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public in and for the State of Washington

 residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EXHIBIT B

ASSIGNMENT

(with power of attorney)

Acknowledgment. The undersigned person (Contractor) acknowledges and agrees that (a) he/she is an Employee (or a subcontractor or an employee of a subcontractor) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Seller) and has been assigned to perform Services under an agreement (Agreement) between Seller and The Boeing Company (Buyer), (b) Seller requires Contractor to comply with the requirements of the Section entitled "Intellectual Property" under the Agreement, (c) Contractor has reviewed, understands, and agrees to perform all of the obligations described in such Section as an Employee of Seller, (d) Contractor’s assignment to perform Services may involve the creation of certain works of authorship (Work Product), and (e) any Intellectual Property rights subsisting in the Buyer Owned Intellectual Property are to be assigned to Buyer.

Assignment. For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor hereby sells, assigns and transfers to Buyer and its lawful successors and assigns, his/her entire right, title and interest in and to the Work Product, together with all rights to Intellectual Property in the Work Product and all of the exclusive rights under said Intellectual Property rights, and the right to register said Intellectual Property in the name of Buyer; the Work Product and said Intellectual Property rights to be held and enjoyed by Buyer as the assignee for the use and benefit of itself and its successors and assigns as fully and entirely as the same would have been held and enjoyed by Contractor had this assignment not been made.

Power of Attorney. Buyer is hereby granted an irrevocable special power of attorney for the limited purpose of perfecting this assignment by executing such instruments as are reasonably necessary therefore, including but not limited to, recordable assignment documents, Intellectual Property rights registration applications, UCC security interest recordings and the like.

In accordance with the terms and conditions of the Agreement, Contractor shall preserve all Work Product and any other proprietary, confidential, and trade secret information in any form of which Contractor becomes aware in connection with work performed under the Agreement (“Proprietary Information”) in confidence. The Contractor shall not use, duplicate, or disclose any Work Product or Proprietary Information for any purpose, other than the performance of the Services under the Agreement, without the prior express written permission of Buyer.

Executed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, this \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

CORPORATE SEAL

 (Contractor)

STATE OF WASHINGTON )

 ) ss

COUNTY OF KING )

On this day personally appeared before me \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he or she signed the same, as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this \_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

 Notary Public in and for the State of Washington

 residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_