



General Provision for Purchase Orders (GP-PO)

As used herein, "Seller" includes Seller, its subsidiaries and affiliates; "Buyer" includes Insitu. Seller and Buyer hereby agree as follows:

1. Formation of Contract

This purchase order, which incorporates by reference these General Provisions and all other terms and conditions set forth (collectively, the "Contract"), are Buyer's terms to purchase the goods and/or services (collectively, the "Goods"). Acceptance is strictly limited to these terms and conditions. Unless specifically agreed to in writing by Buyer's Authorized Procurement Representative, Buyer objects to, and is not bound by, any term or condition that differs from or adds to this Contract. Seller's commencement of performance or acceptance of this Contract in any manner shall conclusively evidence acceptance of this Contract as written. Seller's provision of the Goods shall be governed solely by this Contract. Buyer and Seller are referred to herein as a "Party" or collectively as the "Parties."

2. Delivery

Goods delivered pursuant to the terms of this Contract shall be packed for shipment, per ASTM D3951-10 (excluding section 6, Options and section 7, Performance Testing), in suitable containers to permit safe transportation and marked for shipment by Seller to the shipping destination specified in the applicable purchase order. Buyer may charge Seller for damage to or deterioration of any goods resulting from improper packing or packaging. All packages must be accompanied by a packing list detailing the contents including description and quantity of the goods, part number or size, if applicable, and appropriate evidence of inspection. Buyer's purchase order number and line item number must appear on all packing lists and/or bills of lading. Seller shall ship and deliver all Goods to Buyer FOB: Destination, BINGEN, Washington, USA, unless otherwise stated in the purchase order. Seller shall strictly adhere to the shipment or delivery schedules specified in this Contract. Seller shall not deliver Goods prior to the scheduled delivery dates unless authorized by Buyer's Authorized Procurement Representative. In the event of any anticipated or actual delay, including but not limited to labor disputes, Seller shall: (i) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide Buyer with a written recovery schedule; and (iii) if requested by Buyer, ship via air or other expedited routing to avoid or minimize delay the maximum extent possible, unless Seller is excused from prompt performance as provided in the "Force Majeure" clause of this Contract. The added premium transportation costs are to be borne by Seller.

3. Title & Risk of Loss

Title to the Goods and risk of loss shall pass to Buyer at delivery unless otherwise stated on the Contract.

4. Payment

As full consideration for delivery of the Goods and the assignment of rights to Buyer as provided herein, Buyer shall pay Seller the amount agreed upon and specified in the Contract. Seller's invoice shall separately state all applicable taxes and other charges such as shipping costs, duties, customs, tariffs, imposts and government imposed surcharges. Seller shall consider payment made when Buyer mails its check to Seller. Payment shall not constitute acceptance unless otherwise stated herein. All personal property taxes assessable upon the Goods prior to receipt by Buyer of Goods conforming to the Contract shall be borne by Seller. Seller shall invoice Buyer for only Goods delivered and completed. Except as otherwise agreed to in writing, Seller will not be entitled to any royalty or other remuneration on the production or distribution of any products developed by Buyer in connection with or based on the Goods.

5. Warranties

Seller warrants that all Goods furnished under this Contract shall conform to all specifications and requirements of this Contract and shall be free from defects in materials and workmanship. To the extent



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Goods are not manufactured pursuant to detailed designs and specifications furnished by Buyer, the Goods shall be free from design and specification defects. Seller warrants that all Goods provided will be new and will not be used or refurbished unless so specified on the P.O. Any additional warranties provided by Seller are hereby incorporated by reference. All warranties and Service guaranties shall not be exclusive and shall run both to Buyer and to its customers.

If Buyer identifies a warranty problem with the Goods during the applicable warranty period, Buyer will promptly notify Seller of such problems and, at Seller's expense and Buyer's option, either return the Goods to Seller, repair the Goods or have the Goods repaired. Within five (5) business days of receipt of any returned Goods, Seller shall, at Buyer's option and Seller's expense (i) either repair or replace such Goods; or (ii) credit Buyer's account for the same. Seller shall not redeliver corrected or rejected goods without disclosing the former rejection or requirement for correction and the corrective action taken, on the packing slip. All costs and expenses and loss of value incurred as a result of or in connection with nonconformance and repair, replacement or other correction may be recovered from Seller by equitable price reduction or credit against any amounts that may be owed to Seller under this Contract. Replacement and repaired Goods shall be warranted and shall conform to all specifications and requirements of this Contract and be free from defects in materials and workmanship. This Warranty shall run to Buyer and its successors, assigns and customers, and is transferable to Buyer's customer. If services are to be performed as part of this Contract, Seller warrants that it is qualified to perform such services and warrants all services in accordance with standards referenced in any statement of work. Seller warrants that all services performed hereunder shall be performed by employees or agents of Seller who are experienced and skilled in their profession and in accordance with industry standards. Seller further warrants that all services performed under this Contract, at the time of acceptance, shall be free from defects in workmanship and conform to the requirements of the Contract.

Any hardware, software, and firmware Goods delivered under this Contract:

1. shall not contain any viruses, malicious code, trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (a) damage, destroy or alter any software or hardware; (b) reveal, damage, destroy, or alter any data; (c) disable any computer program automatically; or (d) permit unauthorized access to any software or hardware;
2. shall not contain any third-party software (including software that may be considered free software or open source software) that: (a) may require any software to be published, accessed or otherwise made available without the consent of Buyer; or (b) may require distribution, copying or modification of any software free of charge;
3. shall not infringe any patent, copyright, trademark, or other proprietary right of any third party or misappropriate any trade secret of any third party;
4. shall be free from any liens or encumbrances.

6. Inspection

- a. At no additional cost to Buyer, Goods shall be subject to inspection, surveillance and test at reasonable times and places, including Seller's subcontractors' locations. Buyer and Buyer's Customer have the right to visit Seller's and Seller's subcontractors' locations during operating hours to inspect, review and assess progress and performance under this Contract, including, but not limited to, production, schedule and quality. Any Buyer representative shall be allowed access to all areas used for the performance of this Contract. Buyer shall perform inspections, surveillance, and tests so as not to unduly delay the work.
- b. If Buyer performs an inspection or test on the premises of Seller or its subcontractors, Seller shall furnish, and require its subcontractors to furnish, without additional charge, reasonable facilities, and assistance for the safe and convenient performance of these duties.



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- c. At Buyer's discretion, Buyer and Buyer's Customer shall be permitted to witness First Article Inspections, or any other pertinent inspections identified in advance by Buyer, at Seller's facility prior to delivery of Goods to Buyer. Supplier shall give Buyer at least 10 days notice of the time and place such inspections shall occur.

7. Acceptance & Rejection

- a. Buyer shall accept the Goods or give Seller notice of rejection due to any defect or nonconformance within a reasonable time after the date of delivery. No payment, inspection, prior test, delay, or failure to inspect or test, or failure to discover any defect or other nonconformance shall relieve Seller of any obligations under this Contract or impair any rights or remedies of Buyer, including revocation of acceptance.
- b. If Seller delivers non-conforming Goods, Buyer may at its option and at Seller's expense: (i) require Seller to promptly correct or replace the Goods; (ii) return the Goods for credit or refund; (iii) correct the Goods; or (iv) obtain replacement Goods from another source. Return to Seller of defective or non-conforming Goods and redelivery to Buyer of corrected or replaced Goods shall be at Seller's expense.
- c. Seller shall not redeliver corrected or rejected Goods without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. Repair, replacement and other correction and redelivery shall be completed as Buyer's Authorized Procurement Representative may reasonably direct.

8. Counterfeit Goods

- a. Seller shall not furnish to Buyer any Goods under this Contract that are "Counterfeit Goods," defined as Goods or separately-identifiable items or components of Goods that are: unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified parts, components or Goods from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used unmodified parts, components or Goods represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.
- b. Seller shall implement an appropriate strategy and plan to ensure that Goods furnished to Buyer under this Contract are not Counterfeit Goods. Seller's strategy shall include, but is not limited to, the direct procurement of items from OEMs or authorized suppliers, conducting approved testing or inspection to ensure the authenticity of items, and, when items are to be procured from non-authorized suppliers, obtaining from such non-authorized suppliers appropriate certificates of conformance that provide one or more of the following: (i) the OEM's original certificate of conformance for the item; (ii) sufficient records providing unbroken supply chain traceability to the OEM; or (iii) test and inspection records demonstrating the item's authenticity. This plan shall be furnished to Buyer upon request.
- c. Counterfeit Goods delivered or furnished to Buyer under this Contract are deemed nonconforming. If Seller becomes aware or suspects that it has furnished Counterfeit Goods to Buyer under this Contract, Seller shall promptly notify Buyer and replace, at Seller's expense, such Counterfeit Goods with OEM or Buyer-approved Goods that conform to the requirements of this Contract. Seller shall be liable for all costs related to the replacement of Counterfeit Goods and any testing or validation necessitated by the installation of authentic Goods after Counterfeit Goods have been replaced. The remedies contained in this article are in addition to any remedies Buyer may have at law in equity, or under other provisions of this Contract.
- d. Seller bears responsibility for procuring authentic Goods or items from its subcontractors and shall ensure that all such subcontractors comply with the requirements of this article.



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9. Quality Management

Seller shall establish and maintain a quality management system acceptable to Buyer for the Goods purchased under this Contract. Seller shall permit Buyer to review procedures, practices, processes, and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation of or deviation from Seller's approved inspection/quality management system and to advise Buyer of the quantity and specific identity of any Goods delivered to Buyer during the period of any such violation or deviation. Additional terms and conditions may be required by QAQ-82-001, "Supplier Quality Requirements", incorporated herein by reference.

10. Configuration Management

Seller shall establish and maintain a configuration management system acceptable to Buyer for the Goods and services purchased under this Contract. Seller shall permit Buyer to review procedures, practices, processes, and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation of or deviation from Seller's configuration management system and to advise Buyer of the quantity and specific identity of any Goods delivered to Buyer during the period of any such violation or deviation. Additional terms and conditions may be required by CMQ-71-001, "Supplier Configuration Management Requirements", incorporated herein by reference.

11. Custom Products

All Work, if any, in customizing Seller's product for Buyer's use shall, to the extent permitted under the United States Copyright Act, be deemed a "Work made for hire," with all copyrights therein vesting in Buyer. Other than where Work created hereunder is considered a "Work made for hire," Seller agrees to, and hereby grants, conveys and assigns to Buyer non-exclusive license rights to all copyrights, trade secrets, patents and other intellectual property rights in all such work, and all originals and copies of such work shall be provided to Buyer upon Buyer's request.

12. Subcontracting

Seller shall maintain complete and accurate records regarding all subcontracted items and/or processes. Unless Buyer's prior written authorization or approval is obtained, Seller may not purchase completed or substantially completed Goods for delivery as suppliers product. Completed or substantially completed Goods do not include components or subassemblies necessary to produce supplier product. Unless Buyer's prior written authorization or approval is obtained, Seller may not purchase services where said services result in any Intellectual Property commitments on behalf of Insitu.

13. Diminishing Manufacturing Sources & Material Shortages

Seller shall minimize the impact of all known obsolescence and Diminishing Manufacturing Source & Material Shortages (DMS&MS) issues from design through support. The Supplier shall regularly monitor the obsolescence status of component content in the equipment. Seller shall identify obsolete parts, diminishing manufacturing sources and material shortages. Seller shall monitor the parts and materials that have the potential to adversely affect Buyer's supply of such parts production or life cycle supportability. Seller shall provide Buyer with a minimum of 30 days written notice any time a part is identified as an at risk part or material. Seller's notice shall address part cost, where and how often parts are used in the Goods, and how many parts are affected. Seller shall resolve DMS&MS issues in order to deliver conforming Goods at no additional cost to Buyer to support all delivery options of the PC. Upon request of Buyer, Seller shall provide a management plan describing Sellers efforts to identify these parts, diminishing manufacturing sources and material shortages.



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14. Changes

- a. Buyer's Authorized Procurement Representative may, without notice to sureties and in writing, direct changes within the general scope of this Contract in any of the following areas: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; and, if this Contract includes services, (vi) description of services to be performed; (vii) time of performance (e.g., hours of the day, days of the week); (viii) place of performance, and (ix) terms and conditions of this Contract required to meet Buyer's obligations under Government prime contracts or subcontracts. Seller shall comply immediately with such direction.
- b. If such change increases or decreases the cost or time required to perform this Contract, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this Contract in writing accordingly. Seller must assert any claim for adjustment to Buyer's Authorized Procurement Representative, in writing, within 15 calendar days and deliver a fully supported proposal to same within 60 calendar days. Buyer may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer may direct the disposition of the property. Seller has the burden to support the amount of Seller's claim for equitable adjustment. Further, Buyer shall have the right to verify the amount of Seller's claim in accordance with the Financial Records and Audit Article of this contract. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction.
- c. If Seller considers that Buyer's direction constitutes a change outside of the general scope of this Contract, Seller shall notify Buyer's Authorized Procurement Representative immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Buyer's Authorized Procurement Representative, Seller shall take no action to implement any such change.

15. Indemnification, Insurance, Protection of Property, & Evidence of Citizenship (Applies when work is performed at an Insitu site)

- a. Indemnification. Seller shall defend, indemnify and hold harmless Insitu, Inc., its parent company, any Boeing subsidiary and their directors, officers, employees and agents from and against all actions, causes of action, liabilities, claims, suits, judgments, liens, awards and damages of any kind and nature whatsoever for property damage, personal injury or death (including without limitation injury to or death of employees of Seller or any subcontractor thereof) and expenses, costs of litigation and counsel fees related thereto or incident to establishing the right to indemnification, arising out of or in any way related to this Contract, the performance thereof by Seller or any subcontractor thereof or other third parties, within the control or acting at the direction of Seller, or any of their respective employees (collectively for the purposes of this paragraph, the "Seller Parties"), including, without limitation, the provision of Goods, Services, personnel, facilities, equipment, support, supervision or review. The foregoing indemnity shall apply only to the extent of the negligence or willful misconduct of Seller, any subcontractor thereof or their respective employees that occurs while Seller is on a premises owned or controlled by Buyer. In no event shall Seller's obligations hereunder be limited to the extent of any insurance available to or provided by Seller or any subcontractor thereof. Seller expressly waives any immunity under industrial insurance, whether arising out of statute or other source, to the extent of the indemnity set forth in this paragraph (a).
- b. Commercial General Liability. Seller shall carry and maintain, and ensure that all subcontractors thereof carry and maintain, throughout the period when work is performed and until final acceptance by Buyer, Commercial General Liability insurance with available limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined. Such insurance shall contain coverage for all premises and operations, broad form property damage, contractual liability (including, without limitation, that specifically assumed under paragraph (a) herein) and goods



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and completed-operations insurance with limits of not less than one million dollars (\$1,000,000) per occurrence for a minimum of twenty-four (24) months after final acceptance of the work by Buyer. Such insurance shall not be maintained on a per-project basis unless the respective Seller or subcontractor thereof does not have blanket coverage.

- c. **Automobile Liability.** If licensed vehicles will be used in connection with the performance of the work, Seller shall carry and maintain, and ensure that any subcontractor thereof who uses a licensed vehicle in connection with the performance of the work carries and maintains, throughout the period when work is performed and until final acceptance by Buyer, Business Automobile Liability insurance covering all vehicles, whether owned, hired, rented, borrowed or otherwise, with available limits of not less than one million dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage.
- d. **Workers' Compensation and Employers' Liability.** Throughout the period when work is performed and until final acceptance by Buyer, Seller shall, and ensure that any subcontractor thereof shall, cover or maintain insurance in accordance with the applicable laws relating to Workers' Compensation (and Employers' Liability with limits not less than one million dollars (\$1,000,000) per incident) with respect to all of their respective employees working on or about Buyer's premises. If Buyer is required by any applicable law to pay any Workers' Compensation premiums with respect to an employee of Seller or any subcontractor, Seller shall reimburse Buyer for such payment.
- e. **Certificates of Insurance.** Prior to commencement of the work, Seller shall provide for Buyer's review and approval certificates of insurance reflecting full compliance with the requirements set forth in paragraphs (b), (c), and (d). Such certificates shall be kept current and in compliance throughout the period when work is being performed and until final acceptance by Buyer, and shall provide for 30 days advance written notice to Buyer in the event of cancellation. Failure of Seller or any 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 Seller's or subcontractor's obligations hereunder.
- f. **Self-Assumption.** Any self-insured retention, deductibles and exclusions in coverage in the policies required under this article shall be assumed by, for the account of and at the sole risk of Seller or the subcontractor which 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 thereof be limited to the extent of any of the minimum limits of insurance required herein.
- g. **Protection of Property.** Seller assumes, and shall ensure that all subcontractors thereof and their respective employees assume, the risk of loss or destruction of or damage to any property of such parties whether owned, hired, rented, borrowed, or otherwise, brought to a facility owned or controlled by Buyer or Buyer's customer. Seller waives, and shall ensure that any subcontractor thereof and their respective employees waive, all rights of recovery against Buyer, its subsidiaries and their respective directors, officers, employees and agents for any such loss, destruction or damage. At all times Seller shall, and ensure that any subcontractor thereof shall, use suitable precautions to prevent damage to Buyer's property. If any such property is damaged by the fault or negligence of Seller or any subcontractor thereof, Seller shall, at no cost to Buyer, promptly and equitably reimburse Buyer for such damage or repair or otherwise make good such property to Buyer's satisfaction. If Seller fails to do so, Buyer may do so and recover from Seller the cost thereof.

16. Intellectual Property Indemnity

Seller will indemnify, defend and hold harmless Buyer and its customer from all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright,



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industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the manufacture, sale or use of Goods by either Buyer or its customer. Buyer and/or its customer will duly notify Seller of any such claim, suit, or action. Seller will, at its own expense, fully defend such claim, suit, or action on behalf of the indemnities. Seller will have no obligation under this article with regard to any infringement arising from (a) the compliance of Seller's new product design with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Goods for other than their intended application in combination with other items when such infringement would not have occurred from the use or sale of those Goods solely for the purpose for which they were designed or sold by Seller. For purposes of this article only, the term Buyer will include Insitu, Inc., its parent company and all Boeing subsidiaries and all officers, agents and employees thereof.

17. Confidentiality

- a. Buyer and Seller shall each keep confidential and protect from unauthorized use and disclosure all (a) confidential, proprietary and/or trade secret information, including Buyer-provided specifications and Buyer-provided information pertaining to qualification, certification, manufacturing, performance and/or quality testing and procedures; (b) tangible items and software containing, conveying or embodying such information; and (c) tooling identified as being subject to this article and obtained, directly or indirectly, from the other in connection with this Contract or other agreement referencing this Contract including Buyer's contract with its customer, if any (collectively referred to as "Proprietary Information and Materials"). Proprietary Information and Materials shall not include information that is, as evidenced by competent records provided by the receiving Party, lawfully in the public domain, lawfully disclosed to or known by the receiving Party without restriction, generally known in the relevant trade or industry prior to disclosure hereunder, or developed by the receiving Party independently without the use of or reference to the disclosing Party's Proprietary Information and Materials.
- b. Buyer and Seller shall each use Proprietary Information and Materials of the other only in the performance of and for the purpose of this Contract, other contracts between the Parties, and the Buyer's contract with its customer, if any. However, despite any other obligations or restrictions imposed by this article, Buyer shall have the right to use, disclose and reproduce Seller's Proprietary Information and Materials internal to Buyer, regardless of when disclosed. Buyer shall further have the right to use, disclose, reproduce and make derivative works thereof, for the purposes of cost justification to a Customer, testing, certification, use, sale or support of any Goods delivered under this Contract or any other Contract referencing this Contract, other contracts with Seller and Buyer's contract with its customer, if any. Any such use, disclosure, reproduction, or derivative work by Buyer shall, whenever appropriate, include a restrictive legend suitable for the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by Seller shall apply to all materials derived by the receiving Party or others on its behalf from the disclosing Party's Proprietary Information and Materials. In addition to disclosures permitted hereunder, a receiving Party may disclose received Proprietary Information and Materials in response to a subpoena or court order duly issued in a judicial or legislative process, provided that the receiving Party has used reasonable efforts to give the disclosing Party advanced written notice of any such disclosure requirement and to reasonably cooperate with the disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing its scope.
- c. Upon Buyer's request at any time, and in any event upon the completion, termination or cancellation of this Contract, Seller shall return to Buyer all of Buyer's Proprietary Information and Materials and all materials derived there from, unless specifically directed otherwise in writing by Buyer. Seller shall not, without the prior written authorization of Buyer, (i) sell or otherwise dispose of (as scrap or otherwise) any goods, parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Buyer without the prior written authorization of Buyer or (ii) make, use or sell any Goods, parts or other materials of



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Buyer without notifying Buyer in writing before any such planned making, using or selling activity and executing an agreement between the Parties requiring payment by Seller of a reasonable license fee to Buyer as consideration for each use of such Proprietary Information and Materials of Buyer, unless Buyer has provided prior written authorization to Seller.. Prior to disposing of such parts or other materials as scrap, Seller shall render them unusable. Buyer shall have the right to audit Seller's compliance with this article.

- d. Seller may disclose Proprietary Information and Materials of Buyer to its subcontractors as required for the performance of this Contract, provided that each such subcontractor first agrees in writing to the same obligations imposed upon Seller under this article relating to Proprietary Information and Material. Seller shall be liable to Buyer for any breach of such obligation by such subcontractor.
- e. The provisions of this article are effective notwithstanding the application of any restrictive legends or notices to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination, or cancellation of this Contract.

18. Technical Data Export Control

Articles and services provided to the Seller by the Buyer or its customer in support of this solicitation/Contract may be subject to the International Traffic in Arms Regulation (ITAR) and/or the Export Administration Regulation (EAR). Accordingly, the Seller must obtain approval from the U.S. Department of State (ITAR) or U.S. Department of Commerce (EAR) before exporting such articles or services. Transfer, export, or re-export for which US Government and Buyer permission is required includes, but is not limited to, transfer to foreign nationals. Buyer shall reasonably assist Seller in securing the permission described in this paragraph. Any person who engages, in the United States, in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the Directorate of Defense Trade Controls.

19. Intellectual Property

- a. Intellectual Property (IP). IP means inventions, discoveries and improvements; know-how; technical data, drawings, specifications, system interface requirements, process information, reports and documented information; and computer software. IP includes all worldwide common law and statutory rights to the foregoing, including but not limited to, patents, industrial designs, trade secrets, copyrights, mask work registrations, and the like.
- b. Background IP. Seller shall retain ownership of all IP owned or developed by Seller prior to the effective date of or outside the scope of this Contract ("Background IP"). Seller grants to Buyer an irrevocable, nonexclusive, sublicensable, perpetual, paid-up, royalty-free, worldwide license (i) to use, reproduce, distribute, modify, and prepare derivative works of such Background IP and (ii) to use, make, have made, offer for sale, sell, distribute and import products and services that incorporate or embody such Background IP, in each case solely as necessary for the purpose of exploiting Buyer's rights in the Goods or Foreground IP. Seller grants to Buyer such license rights for any purpose in the event Buyer cancels all or part of this Contract for Seller default in accordance with the "Cancellation for Default" Article of this Contract or in the event Buyer, in its own judgment, must provide Seller with design, manufacturing, or on-site support substantially in excess of what is required of Buyer under this Contract in order for Seller to comply with this Contract.
- c. Employee Agreements. Seller shall obtain agreements with its personnel to enable the grant of rights to which Buyer is entitled under this Article.
- d. Third Party IP. To the extent Seller incorporates third-party IP into any contract deliverable, Seller shall obtain for Buyer at least the license rights granted in paragraph b of this Article in such third-party IP, at no additional cost to Buyer.



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- e. Foreground IP. The following subparagraphs of this paragraph e shall not apply to: (i) commercial off-the-shelf Goods except to the extent such Goods are modified or redesigned pursuant to this Contract; or (ii) any Goods to the extent their development was funded by the U.S. Government.
- i. All IP conceived, developed, or first reduced to practice by, for, or with Seller, either alone or with others, in performance of this Contract (collectively, "Foreground IP") shall be the exclusive property of Buyer. To the extent Foreground IP consists of works of authorship, such works shall be works made for hire with the copyrights vesting in Buyer. Seller hereby transfers, conveys, and assigns all right, title and interest in such Foreground IP free of charge to Buyer. Seller hereby irrevocably transfers, conveys, and assigns all right, title and interest in any other Foreground IP not considered a work made for hire free of charge to Buyer. Seller shall protect Foreground IP that is Proprietary Information and Materials as required by this Contract and shall mark documents or portions of documents containing Foreground IP as "Boeing Proprietary" information or as otherwise directed by Buyer in writing.
 - ii. Seller will, within two (2) months after conception or first actual reduction to practice of any invention and prior to Contract completion, disclose in writing to Buyer all inventions, whether or not patentable, in sufficient technical detail to clearly convey the invention to one skilled in the art to which the invention pertains. Seller shall promptly execute all written instruments, and assist as Buyer reasonably directs in order to file, acquire, prosecute, maintain, enforce and assign Buyer's Foreground IP rights. Seller hereby irrevocably appoints Buyer and any of Buyer's officers and agents as Seller's attorney in fact to act on Seller's behalf and instead of Seller, with the same legal force and effect as if executed by Seller, with respect to executing any such written instruments.
 - iii. Buyer grants to Seller a non-exclusive, royalty-free right during the term of this Contract to use, reproduce, modify, practice and prepare derivative works of any Foreground IP solely as necessary for Seller to perform its obligations under this Contract, except that, notwithstanding the foregoing, Seller may use and disclose Proprietary Information and Materials as permitted under this Contract. Seller shall not, without Buyer's prior written consent, use Foreground IP or such derivative works in any manner not authorized under this Contract, including, but not limited to, developing, manufacturing, obtaining a certification to manufacture, offering for sale or selling any product, equipment, or service which utilizes or is enabled by Foreground IP.

20. Termination for Convenience

- a. Buyer may terminate all or part of this Contract for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to stop work. Subject to the terms of this Contract, within ninety (90) days after the effective date of termination, Seller may submit to Buyer a claim reflecting the percentage of the work performed prior to the effective date of termination, plus reasonable charges that Seller can demonstrate to the satisfaction of Buyer using its standard record keeping system have resulted from the termination. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided. Further, Seller shall not be paid, and in no event shall Buyer be obligated to pay, lost or anticipated profits or unabsorbed indirect costs or overhead. In no event shall Buyer be obligated to pay Seller any amount in excess of the Contract price. The provisions of this Article shall not limit or affect the right of Buyer to cancel this Contract for default. Seller shall continue all work not terminated.
- b. Buyer may terminate performance of work under this Contract in whole or, from time to time, in part if the Buyer determines that a termination is in the Buyer's interest. The Buyer shall terminate by delivering to the Seller a Notice of Termination specifying the extent of termination and the effective date.



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- c. After receipt of a Notice of Termination, and except as directed by the Buyer, the Seller shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
- 1) Stop work as specified in the notice.
 - 2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the Contract.
 - 3) Terminate all subcontracts to the extent they relate to the work terminated.
 - 4) Assign to the Buyer, as directed by the Buyer, all right, title, and interest of the Seller under the subcontracts terminated, in which case the Buyer shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
 - 5) With approval or ratification to the extent required by the Buyer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.
 - 6) As directed by the Buyer, transfer title and deliver to the Buyer -
 - i. The fabricated or un-fabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and
 - ii. The completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to the Buyer.
 - 7) Complete performance of the work not terminated.
 - 8) Take any action that may be necessary, or that the Buyer may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Seller and in which the Buyer has or may acquire an interest.
 - 9) Use its best efforts to sell, as directed or authorized by the Buyer, any property of the types referred to in subparagraph (b)(6) of this clause; provided, however, that the Seller
 - i. is not required to extend credit to any purchaser and
 - ii. may acquire the property under the conditions prescribed by, and at prices approved by, the Buyer.
- The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Buyer under this Contract, credited to the price or cost of the work, or paid in any other manner directed by the Buyer.
- d. The Seller shall submit complete termination inventory schedules no later than 30 days from the effective date of termination, unless extended in writing by the Buyer upon written request of the Seller within this 30-day period.
- e. After termination, the Seller shall submit a final termination settlement proposal to the Buyer in the form and with the certification prescribed by the Buyer. The Seller shall submit the proposal promptly, but no later than 6 months from the effective date of termination, unless extended in writing by the Buyer upon written request of the Seller within this 6 month period. However, if the Buyer determines that the facts justify it, a termination settlement proposal may be received and acted on after 6 months or any extension. If the Seller fails to submit the proposal within the time allowed, the Buyer may determine, on the basis of information available, the amount, if any, due the Seller because of the termination and shall pay the amount determined.
- f. Subject to paragraph (d) of this clause, the Seller and the Buyer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may



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include a reasonable allowance for profit on work done. However, the agreed amount may not exceed the total Contract price as reduced by

- 1) the amount of payments previously made and
 - 2) the Contract price of work not terminated.
- g. The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this Contract, shall govern all costs claimed, agreed to, or determined under this clause.
- h. In arriving at the amount due the Seller under this clause, there shall be deducted --
- 1) All un-liquidated advance or other payments to the Seller under the terminated portion of this Contract;
 - 2) Any claim which the Buyer has against the Seller under this Contract; and
 - 3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Seller or sold under the provisions of this clause and not recovered by or credited to the Buyer.
- i. If the termination is partial, the Seller may file a proposal with the Buyer for an equitable adjustment of the price(s) of the continued portion of the Contract. The Buyer shall make any equitable adjustment agreed upon. Any proposal by the Seller for an equitable adjustment under this clause shall be requested within 30 days from the effective date of termination unless extended in writing by the Buyer.
- j. The Buyer may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Seller for the terminated portion of the Contract, if the Buyer believes the total of these payments will not exceed the amount to which the Seller will be entitled.
- k. Unless otherwise provided in this Contract or by statute, the Seller shall maintain all records and documents relating to the terminated portion of this Contract for 4 years after final settlement. This includes all books and other evidence bearing on the Seller's costs and expenses under this Contract.

21. Cure & Default

- a. Buyer may, by written notice to Seller, cancel all or part of this Contract: (i) if Seller fails to deliver the Goods within the time specified by this Contract or any written extension; (ii) if Seller fails to perform any other provision of this Contract or fails to make progress, so as to endanger performance of this Contract, and, in either of these two circumstances, within ten (10) days after receipt of notice from Buyer specifying the failure, does not cure the failure or provide Buyer with a written detailed plan adequate to cure the failure if such failure reasonably cannot be cured within such ten (10) days and such plan is acceptable to Buyer's Authorized Procurement Representative; or (iii) in the event of Seller's bankruptcy, suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors.
- b. Seller shall continue work not canceled.
- c. Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any (i) completed Goods, and (ii) any partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the canceled portion of this Contract. Upon direction from Buyer, Seller shall also protect and preserve property in its possession in which Buyer or its Customer has an interest.



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- d. Buyer shall pay the Contract price for Goods accepted. In addition, any payment for Manufacturing Materials accepted by Buyer and for the protection and preservation of property shall be at a price determined in accordance with the "Termination for Convenience" article of this Contract, except that Seller shall not be entitled to profit. Buyer may withhold from any amount due under this Contract any sum Buyer determines to be necessary to protect Buyer or Buyer's customer against loss because of outstanding liens or claims of former lien holders.
- e. If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the Parties shall be as if the Contract had been terminated according to the "Termination for Convenience" article of this Contract.

22. Disputes

The parties agree to make every effort to resolve disputes through communication amongst the parties. The following steps shall be taken to resolve any disputes: (1) oral communication between the parties; then (2) the aggrieved party shall notify the other party in writing as to the dispute within 30 days to resolve; if not resolved then (3) either party may seek redress in any court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute. Notwithstanding the foregoing, this Article shall not prohibit either Party from instituting litigation to preserve any statutory rights or seeking an injunction to prevent a breach or violation of a Party's rights under Article 17, Confidentiality.

23. Buyer's Employees

For the term of this Agreement and 12 months following its expiration or termination, Supplier shall not employ or retain as an independent contractor any employee of Insitu without Insitu's consent.

24. Buyer's Property

Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Buyer's property and all property to which Buyer acquires an interest by virtue of this Contract. Buyer may require that a Bonded Stores Agreement be executed between the parties. Seller assumes all risk of loss, destruction, or damage of such property while in Seller's possession, custody, or control, including any transfer to Seller's subcontractors. Upon request, Seller shall provide Buyer with an inventory of the property and adequate proof of insurance against such risk of loss. Seller shall not use such property other than in performance of this Contract without Buyer's prior written consent. Seller shall notify Buyer's Authorized Procurement Representative if Buyer's property is lost, damaged, or destroyed. As directed by Buyer, upon completion, termination, or cancellation of this Contract, Seller shall deliver such property, to the extent not incorporated in delivered Goods, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this article limits Seller's use, in its direct contracts with the Government, of property in which the Government has an interest.

25. Financial Records & Audit

Seller shall retain all records and documents pertaining to the Goods for a period of no less than four (4) years after final payment. Such records and documents shall date back to the time this Contract was issued and shall include without limitation, catalogs, price lists, invoices, and inventory records for purposes of verification of prices or rates charged by seller for Goods procured by Buyer. Buyer shall have the right to examine, reproduce, and audit all such records related to pricing, incurred costs and proposed costs associated with any proposal (prior to or after contract award), invoices or claims.

26. Force Majeure

Seller shall not be liable for excess re-procurement costs pursuant to the "Cure & Default" article of this Contract incurred by Buyer because of any failure to perform this Contract under its terms if the failure



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arises from causes beyond the control and without the fault or negligence of Seller. Examples of these causes are: (a) acts of God or of the public enemy; (b) acts of the Government in either its sovereign or contractual capacity; (c) fires; (d) floods; (e) epidemics; (f) quarantine restrictions; (g) strikes; (h) freight embargoes; and (i) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of Seller. If the Seller's failure is caused by the failure of a subcontractor of Seller and if such failure arises out of causes beyond the reasonable control of both, and if such failure is without the fault or negligence of either, Seller shall not be liable for excess re-procurement costs unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Seller shall notify Buyer in writing within ten (10) days after the beginning of any such cause(s). In all cases, Seller shall use reasonable efforts to avoid or minimize all such failures, including exercising work-around plans or obtaining the Goods from other sources.

27. Severability

If any provision of this Contract shall be deemed to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

28. Assignment & Delegation

- a. Seller shall not and shall cause its affiliates not to, directly, indirectly, voluntarily or involuntarily, in each case, whether by transfer, operation of law, Change of Control (as described in subparagraph b below) or otherwise assign any of its rights or interest in this Contract, delegate any of its obligations under this Contract, or subcontract for all or substantially all of its performance of this Contract (each, an "Assignment"), without Buyer's prior written consent after advance written notice by Seller. No purported assignment, with or without Buyer's consent, shall relieve Seller of any of its obligations under this Contract or prejudice any rights or claims that Buyer may have against Seller, whether such obligations, rights or claims, as the case may be, arise before or after the date of any purported Assignment; provided however, that Seller may assign its right to monies due or to become due under this Contract, and this Article does not limit Seller's ability to purchase standard commercial supplies or raw materials in connection with its performance of this Contract.
- b. For the purposes of this Contract, the term "Change of Control" shall mean any of the following, whether in a single transaction or a series of related transactions and whether or not Seller is a party thereto:
 - i. a sale, conveyance, transfer, distribution, lease, assignment, license or other disposition of all or substantially all of the assets of Seller;
 - ii. any consolidation or merger of Seller or its controlling affiliates, any dissolution of Seller or its controlling affiliates, or any reorganization of one or more of Seller or its controlling affiliates; or
 - iii. any sale, transfer, issuance, or disposition of any equity securities or securities or instruments convertible or exchangeable for equity securities (collectively, "securities") of Seller or its controlling affiliates in which the holders of all of the securities that may be entitled to vote for election of any member of a board of directors or similar governing body of Seller or such controlling affiliate immediately prior to such transaction(s) holds less than fifty percent (50%) of the securities that may be entitled to vote for the election of any such member in such entity immediately following such transaction(s).



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29. Nonexclusive Contract

This is not an exclusive Contract. Buyer is free to engage others to provide Goods or services the same as or similar to Seller's. Seller is free to, and is encouraged to, advertise, offer, and provide Seller's standard Goods or services to others; provided however, that Seller does not breach this Contract.

30. Notices

Except for Purchase Orders which may be sent by local mail, facsimile transmission, or electronically transmitted, all notices, and other communications hereunder shall be in writing, and shall be addressed to Seller or to an authorized Buyer representative, and shall be considered given when (a) delivered personally, (b) sent by email or facsimile, (c) sent by commercial overnight courier with written verification receipt, or (d) ten (10) days after having been sent, postage prepaid, by first class or certified mail.

31. Survival of Obligations

Any obligations and duties which by their nature extend beyond the expiration or termination of this Contract shall survive the expiration or termination of this Contract, including but not limited to Confidentiality and Export.

32. Governing Law

This Contract shall be governed and construed in all respects in accordance with the domestic laws and regulations of the State of Washington, without regard to its conflicts of laws principles to the contrary. The parties specifically agree that the 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

33. Compliance with Government Flow-down Clauses

Government clauses which may be applicable to this Contract are incorporated herein either by attachment to this document or by other means of reference.

34. Offset Credit

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

35. Reciprocal Waiver of Claims – Qualified Anti-Terrorism Technology

- a. This Contract may involve manufacture, sale, use, or operation of qualified anti-terrorism technologies. You are a contractor, subcontractor, supplier, vendor, customer, or contractor and subcontractor of a customer of such technologies. As such, pursuant to 6 U.S.C. §443(b) of the SAFETY Act and 6 C.F.R. §25.5(e), you shall be responsible for losses, including business interruption losses, that you sustain (and for losses that your employees sustain) resulting from an activity resulting from an act of terrorism when the qualified anti-terrorism technologies have been deployed in defense against or response to or recovery from such act of terrorism.
- b. Qualified anti-terrorism technology," "act of terrorism," and "loss" are defined in 6 U.S.C. §444.



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- c. Include the substance of this clause, including this paragraph (c), in all Contracts, purchase orders (PO), or Subcontracts or PO's with a contractor, subcontractor, supplier, vendor, customer, or contractor and subcontractor of a customer. In accordance with FAR 50.205-1 (Safety Act Considerations 2007), the U.S. Government is not a "customer" from which a contractor must request a reciprocal waiver of claims.

36. Suspension of Work

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

37. Publicity

Seller shall implement the intent of this paragraph in its business operations and at all of its sub-tier Suppliers as follows:

- a. Seller shall not use Buyer's brand (text or visual use of Buyer's products, services, company name, logo, programs, etc.), of any kind through any outbound channel, including, but not limited to: press releases, advertising, media articles, websites, presentations, video, still photos and tradeshow graphic panels & promotional items or denial or confirmation of same regarding this Contract or the Goods or program to which it pertains.
- b. Seller shall require that its subcontractors, at all tier levels, not release any publicity, advertisement, news release or denial or confirmation of same regarding this Contract or the Goods or program to which it pertains. Information released includes, but is not limited to: press releases, advertising, media articles, websites, presentations, video, still photos, and tradeshow graphic panels & promotional items, etc.
- c. Seller shall be liable to Buyer for any breach of such obligation by subcontractor and its sub-tier suppliers. Buyer may, at its option, recover damages caused by release of unauthorized information as discussed in this section including all legal fees and costs.
- d. By accepting this Contract, Seller explicitly agrees that dissemination of unauthorized publicity is strictly prohibited unless approved prior to any release, in writing, by a representative of Buyer's Procurement organization.

38. Business Conduct

- a. Compliance with Laws. Seller shall comply fully with all applicable statutes and government rules, regulations and order. Without acting as a limitation, Seller shall comply with (i) all applicable country laws relating to anti-corruption or anti-bribery, including, but not limited to, legislation implementing the Organization for Economic Co-operation and Development "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" (the "OECD Convention") or other anti-corruption/anti-bribery convention; and (ii) the requirements of the Foreign Corrupt Practices Act, as amended, ("FCPA") (15 U.S.C. §§78dd-1, et. seq.), regardless of whether Seller is within the jurisdiction of the United States, and Seller shall, neither directly nor indirectly, pay, offer, give, or promise to pay or give any portion of monies or anything of value received from Buyer to a non-U.S.



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public official or any person in violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery.

- b. Gratuities. Seller warrants that neither it nor any of its employees, agents, or representatives have offered or given, or will offer or give, any gratuities to Buyer's employees, agents or representatives for the purpose of securing this Contract or securing favorable treatment under this Contract.
- c. 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 an Ethical Business Code and a Code of Basic Working Conditions and Human Rights setting out in detail the measures it takes to ensure this commitment is fulfilled. Buyer strongly encourages Seller to adopt and enforce these concepts 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. Further, any material violation of law by Seller relating to basic working conditions and human rights including laws regarding slavery and human trafficking, of the country or countries in which Seller is performing work under this Contract may be considered a material breach of this Contract for which Buyer may elect to cancel any open orders between Buyer and the Seller, for cause, in accordance with the provision of this order entitled "Cure and Default". Seller shall include the substance of this clause, including this flowdown requirement, in all subcontracts awarded by Seller for work under this Contract.
- d. Environmental, Health, & Safety Performance. Seller acknowledges and accepts full and sole responsibility to maintain an environment, health, and safety management system ("EMS") appropriate for its business throughout the performance of this Contract. Buyer expects that Seller's EMS will promote health and safety, environmental stewardship, and pollution prevention by appropriate source reduction strategies. Seller shall convey the requirement of this clause to its suppliers. Seller shall not deliver Goods that contain any asbestos mineral fibers.
- e. Seller Facility. Seller shall provide Buyer written notice of any proposed plans for moving Seller's manufacturing location for goods or moving tooling or other equipment utilized in the manufacture of the Goods to another factory. In no event shall Seller proceed with implementing such plans prior to obtaining Buyer's prior written approval.
- f. Buyer's Policies. Seller agrees that Buyer's internal policies, procedures and codes are intended to guide the internal management of the Buyer and are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by Seller against the Buyer.
- g. Conflict Minerals. Seller shall, no later than thirty (30) days following the calendar year in which Seller has delivered any Goods to Buyer, under this Contract or otherwise, complete and provide to Buyer a single and comprehensive Conflict Minerals Reporting Template, using the form found at <http://www.boeingssuppliers.com>. Seller shall perform appropriate due diligence on its supply chain in order to fulfill the reporting obligations of this Article.

39. Utilization of Small Business Concerns

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



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40. Seller Financial Review

If the Contract, in the aggregate, exceeds \$350,000 and extends for more than one year, or if requested by Buyer, the Seller shall provide financial data as specified below, on a quarterly basis, or as requested, to Buyer's Corporate Credit Office for credit and financial condition reviews. If Seller itself is publicly traded (not a subsidiary of a publicly traded company) and is required to file reports with the Securities and Exchange Commission ("SEC"), Buyer's Corporate Credit Office shall obtain Seller financial data from information made available to the general public via 10-K and 10-Q reporting requirements. In the event that Seller does not submit financial statements to the SEC or is no longer required to do so during the term of this Contract, Seller shall provide financial data on a quarterly basis to Buyer's Corporate Credit Office. Such financial data shall include, but is not 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 seventy-two (72) hours of any written request by Buyer's Corporate Credit Office. All such information shall be treated as confidential.

41. Access to Plants & Properties

Where Seller is either entering or performing work at premises owned or controlled by Buyer or Buyer's customer or obtaining access electronically to Buyer systems or information, Seller shall comply with: (i) all the rules and regulations established by Buyer or Buyer's customer for access to and activities in and around premises controlled by Buyer or Buyer's customer; and (ii) Buyer's requests for information and documentation to validate citizenship or immigration status of Seller's personnel or subcontractor personnel. In addition, Seller acknowledges that Buyer may perform routine background checks on Seller personnel. Seller shall include the substance of this clause, including this flowdown requirement, in all subcontracts awarded by Seller for work under this Contract.

42. Electronic Access

- a. Buyer may (at its sole discretion) grant in writing to Seller a limited, nontransferable, nonexclusive, revocable (in Buyer's sole discretion) right for Seller personnel to access electronic information systems operated by or on behalf of Buyer, including but not limited to, facilities, network communication systems, telecommunications systems, software, applications, information and data, (collectively, the "Insitu Systems") during the term of this Contract to the extent necessary for Seller to perform this Contract. Seller personnel shall not access or use the Insitu Systems for any other purpose. INSITU SYSTEMS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND SELLER EXPRESSLY AGREES THAT BUYER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO RELIABILITY AND AVAILABILITY OF ANY INSITU SYSTEM.
- b. In addition to any other rights and obligations set forth in any relevant Contract, Seller acknowledges that any information accessed through the Insitu Systems, whether or not marked as "proprietary" or equivalent, shall be considered proprietary to Buyer and shall be protected in accordance with the "Confidential" Article of the Contract.
- c. Buyer shall have the right to audit Seller's compliance with this Article.
- d. Seller and Seller personnel understand and consent as follows: Seller and Seller personnel have no reasonable expectation of privacy in any communications or data, personal or otherwise, transiting or stored on Insitu Systems; any communications or data transiting or stored on Insitu Systems may be monitored, intercepted, recorded, and searched at any time and for any lawful purpose, and may be used or disclosed for any lawful purpose.
- e. Any security breach of the Insitu Systems or other breach of the requirements of this Article, shall be grounds for default in accordance with the "Cure and Default" Article of this Contract.



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43. Trade Control Compliance

- a. The Parties shall comply with all export and import laws, regulations, decrees, orders, and policies of the United States Government and the Government of any country in which the Parties conduct business pursuant to this Contract, including but not limited to the Export Administration Regulation ("EAR") of the U.S. Department of Commerce, the International Traffic in Arms Regulations ("ITAR") of the U.S. Department of State, the U.S. Customs & Border Protection Regulations, the Harmonized Tariff Schedule, and the anti-boycott and embargo regulations and guidelines as set forth in EAR and in the U.S. Department of Treasury, Office of Foreign Assets Control (collectively, "Trade Control Laws").
- b. Seller shall control disclosure of, and access to, controlled items or technical data provided by Buyer related to performance of the Contract in compliance with all applicable Trade Control Laws. Seller shall not transfer (to include transfer to foreign persons employed by or associated with, or under contract to Seller, or Seller's sub-tier suppliers or Seller's non-U.S. subsidiaries) any export controlled item, data or services, without providing advance notice to Buyer and obtaining the requisite export and/or import authority.
- c. Subject to applicable Trade Control Laws, Seller shall provide Buyer with the export control classification of any commodity or technology including software.
- d. Seller represents that it maintains an effective export/import control compliance program in accordance with all applicable Trade Control Laws. A copy of process control documents and other documents reasonably requested by Buyer related to Seller's compliance with applicable Trade Control Laws shall be made available to Buyer upon request.
- e. Seller shall promptly notify Buyer if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any Government entity.
- f. Seller shall timely inform Buyer of any actual or alleged violations of any applicable Trade Control Laws including any suits, actions, proceedings, notices, citations, inquiries, or other communications from any government agency concerning any actual or alleged violations, in Seller's performance under this Contract and shall comply with all reasonable requests from Buyer for information regarding any such violations.
- g. Seller shall incorporate into any contracts with its sub-tier supplier's obligations no less restrictive than those set forth in this Article requiring compliance with all applicable Trade Control Laws.

44. Claims Adjustment

Buyer may at any time deduct or set-off Seller's claims for money due or to become due from Buyer against any claims that Buyer has or may have arising out of this Contract or other transactions between Buyer and Seller.

45. No Waiver; Rights & Remedies

- a. Any failure, delays or forbearances of either Party in insisting upon or enforcing any provision of this Contract, or in exercising any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.
- b. Except as expressly and affirmatively disclaimed in writing in this Contract, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the Parties may have at law or in equity. If any provision of the Contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable. Seller acknowledges and agrees that money damages



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may not be adequate remedy for any actual, anticipatory or threatened breach of this Contract by Seller with respect to its delivery of the Goods to Buyer.

- c. Seller agrees that Buyer's approvals of Seller's technical and quality specifications, drawings, plans, procedures, reports and other submissions shall not relieve Seller of its obligations to perform all requirements of this Contract.
- d. Buyer may at any time deduct or set-off Seller's claim for money due or to become due from Buyer against any claims that Buyer has or may have arising out of this Contract or any other transactions between Buyer and Seller.

46. Order of Precedence

All documents and provisions in this Contract shall be read so as to be consistent to the fullest extent possible. In the event of a conflict or inconsistency between the documents or provisions as incorporated into or attached to the Contract, the documents or provisions shall prevail in the order listed below, with the first document or provision listed having the highest precedence:

Document Title/Description:

- a. Customer Contract Requirements (CCR), if set forth in this Contract.
- b. The system generated purchase contract document.
- c. General Provisions for Purchase Orders and any Special Business Provisions.
- d. Specifications (the most recently agreed to and issued version of specifications shall control and Buyer's specifications shall prevail over any subsidiary documents referenced therein).
- e. Statements of Work (the most recently agreed to and issued version of a statement of work shall control).
- f. All other attachments, exhibits, appendices, documents or terms incorporated by reference in or attached to this Contract.

47. Entire Agreement

This Contract, together with all purchase orders, change orders, attachments, exhibits, supplements, specifications, and other terms referenced in this Contract, contains the entire agreement of the Parties and supersedes any and all prior agreements, understandings and communications between Buyer and Seller related to the subject matter of this Contract. Except as authorized herein, no amendment or modification of this Contract shall bind either Party unless it is in writing and is signed by Buyer's Authorized Procurement Representative and an authorized representative of Seller.