

THE BOEING COMPANY

GENERAL PROVISIONS

Small Value Firm Fixed Price Contract for Services
(DOD Prime Contract)
DF 4400-920 (Rev. 11/98)

1. **ACCEPTANCE.** This Contract is Buyer's offer to Seller, and acceptance is strictly limited to its terms. Buyer shall not be bound by and specifically objects to any term or condition whatsoever which is different from or in addition to the provisions of this Contract, whether or not such term or condition will materially alter this Contract. Seller commencement of performance or acceptance of this Contract in any manner shall conclusively evidence agreement to this Contract as written.
2. **DEFINITIONS.** Whenever used in this Contract, (a) "Customer" means any customer of Buyer, any subsequent owner, operator or user of the Services and any other individual, partnership, corporation or person or entity which has or acquires any interest in the Services from, through or under Buyer; (b) "FAR" means the Federal Acquisition Regulation; (c) "DFARS" means the Department of Defense FAR Supplement; (d) "NFS" means NASA FAR Supplement; (e) "Services" means all of the services, data, software and other items furnished or to be furnished to Buyer under this Contract; and (f) "Contract" means this purchase contract including the provisions on its face, these General Provisions, and all of the specifications, technical descriptions, statements of work, drawings, designs, documents, and other requirements and provisions attached to, incorporated into or otherwise made a part of this purchase contract by Buyer. Unless otherwise specified in this contract, FAR, DFARS and NFS references cited herein are those in effect in the date of this contract.
3. **INVOICE AND PAYMENT.** Seller shall issue a separate invoice for each delivery and shall not issue any invoice prior to the scheduled or actual delivery date, whichever is later. Payment will be made after receipt of Services and correct invoice. Unless freight or other charges are itemized, any discount may be taken on full amount of invoice. Payment due date, including discount periods, will be computed from date of receipt of Services or correct invoice, whichever is later, to date Buyer's check is mailed or otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of amounts due Seller.
4. **INVOICE PAYMENT REQUIREMENTS**
 - A. **Payments.** Payments are made from "Original" invoices only. Fax copies, statements or invoice copies will not be accepted. "Duplicate Original" invoices must not be sent without prior authorization from either the Buyer or Accounts Payable. "Duplicate Original" invoices must be signed and dated with the full signature of Seller's appropriate manager. Initials will not be accepted. Third Party Billing is not allowed.
 - B. **Terms.** Payment terms BEGIN UPON RECEIPT of an acceptable invoice by Buyer's Accounts Payable organization. Payments are not scheduled based upon the date of your invoice. Agreed upon terms must be correctly indicated on your invoice and should agree with the purchase contract. Example: 2% 10 Net 30.
 - C. **Mailing Information.**

Invoices are to be mailed to:

Boeing Defense & Space Group Accounts Payable
Mail Stop 80-FW
P.O. Box 34113
Seattle, WA 98124-1113

Express Overnight mail should be sent to:

Boeing Defense & Space Group Accounts Payable
18-01 Building, 2nd Floor, Mail Stop 80-FW
20403 68th Avenue South
Kent, WA 98032

D. Prepaid Freight Charges. When prepaid freight charges are authorized by Buyer, include a copy of the "prepaid freight bill" with the invoice for charges over \$100.00. Freight charges will be deducted from the payment if this documentation is not included.

E. Invoice Information. All invoices must contain the following information:

1. Buyer's Purchase Contract Number (Example: AA1111 or AAA111) Note: Only one Purchase Contract Number per Invoice.
2. Payment Terms (Example: 2% 10 Net 30)
3. Invoice Number
4. Invoice Date
5. Boeing Purchase Contract Order Line Item Number (Example: 05)
6. Quantity Invoiced (Note: quantity invoiced must equal quantity shipped and cannot exceed quantity ordered)
7. Boeing Part Number
8. Unit Price
9. Total Price
10. Total Tax
11. Freight Charges

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

F. Payment Inquiries. Boeing Defense & Space Group checks are generated once a week. Checks are prepared and mailed each Friday. Inquiries on past due invoices (aged over 45 days) or payment problems may be faxed directly to Accounts Payable, fax number (206) 773-7999. A copy of the invoice in question should be annotated with the specific problem. For example:

1. Not Paid
2. Under/Over Paid (show the amount under or over paid)
3. Sales Tax or Freight Not Paid

5. **CHANGES.** Buyer's Materiel Representative may from time to time in writing direct changes within the general scope of this Contract in any one or more of the following: (a) technical requirements and descriptions, specifications, statement of work, drawings or designs; (b) shipment or packing methods, (c) place of delivery, inspection or acceptance; (d) reasonable adjustments in quantities or delivery schedules or both; and (e) amount of Buyer-furnished property. Seller shall comply immediately with such direction, and avoid unnecessary costs related thereto. If any such change causes an increase or decrease in the cost of or the time required for performance of this Contract, an equitable adjustment in the prices and schedules of this Contract shall be made to reflect such increase or decrease and this Contract shall be modified in writing accordingly. Unless otherwise agreed in writing, any Seller claim for adjustment must be asserted to the Buyer in writing within 25 days with a firm proposal delivered to the Buyer within 60 days after Seller receipt of such direction. Failure of Buyer and Seller to agree upon any adjustment shall not excuse Seller from performing in accordance with such direction. If Seller considers that Buyer conduct has constituted a change hereunder, Seller shall notify Buyer immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Buyer's Materiel Representative, Seller shall take no action to implement any such change.
6. **TERMINATION - CONVENIENCE.** Buyer may terminate this Contract in whole or from time to time in part, effective as of the date specified by Buyer, in accordance with the provisions of FAR 52.249-2, "Termination for Convenience of the Government", which provisions are incorporated herein by reference; and in which "Government" and "Contracting Officer" shall mean Buyer, "Contractor" shall mean Seller and the phrase "1 year" is deleted each place it occurs and "180 days" is substituted. The right to examine records is set forth in paragraph (m) of FAR 52.249-2 shall be as stated elsewhere in this contract. If this contract supports a prime contract with the U.S. Government, settlements and payments under this clause are subject to approval by the Contracting Officer and Settlement Review Board.
7. **CANCELLATION - DEFAULT.** Buyer may cancel this Contract in whole or from time to time in part, effective on the date specified by Buyer, in accordance with the provisions of FAR 52.249-8, which provisions are incorporated herein by reference, in the event of Seller default, or in the event of Seller's suspension of business, insolvency, reorganization or arrangement or liquidation proceedings, assignment for the benefit of creditors, or actual or constructive rejection by a bankruptcy trustee, or appointment of a receiver for Seller's property. In FAR 52.249-8, "Government" and "Contracting Officer", except in paragraph (c), shall mean Buyer, and "Contractor" shall mean Seller. If Buyer and Seller fail to agree on the amount to be paid for manufacturing materials referred to in paragraph (f) of FAR 52.249-8, the amount shall be the reasonable value thereof but not to exceed that portion of the price of this Contract which is reasonably allocable to such materials.
8. **RESPONSIBILITY FOR PERFORMANCE.** Buyer issuance of this Contract is based in part on Buyer reliance upon Seller's ability, expertise and Seller's continuing compliance with all applicable laws and regulations during the performance of this Contract. Further, Seller shall not, by contract, operation of law, or otherwise, assign any of its rights or interest in this Contract, including but not limited to any right to monies due or to become due, or delegate any of its duties or obligations under this Contract, or subcontract all or substantially all of its performance of this Contract to one or more third parties, without Buyer's prior written consent. No assignment, delegation or subcontracting by Seller, with or without Buyer's consent, shall relieve Seller of any of its obligations under this Contract.
9. **PUBLICITY.** Seller shall not, and shall require that its subcontractors and suppliers of any tier shall not, cause or permit to be released any publicity, advertisement, news release, public announcement, or denial or confirmation of same, in whatever form, regarding any aspect of this Contract or the Services or program to which they pertain without Buyer's prior written approval. The above restrictions shall not apply to information provided in response to Government requests.

10. **RESPONSIBILITY FOR BUYER-OWNED PROPERTY.** Unless otherwise specified, upon delivery to Seller or manufacture or acquisition by Seller of any materials, parts, tooling, data or other property, title to which is in Buyer, Seller assumes the risk of and shall be responsible for any loss thereof or damage thereto. In accordance with the provisions of this Contract, but in any event upon completion thereof, Seller shall return such property to Buyer in the condition in which it was received except for reasonable wear and tear and except for such property as has been reasonably consumed in the performance of this Contract.
11. **CONFIDENTIAL OR PROPRIETARY INFORMATION AND PROPERTY.** Seller shall keep confidential and otherwise protect from disclosure all information and property obtained from Buyer in connection with this Contract and identified as confidential or proprietary. Unless otherwise expressly authorized herein or by Buyer, Seller shall use such information and property, and the features thereof, only in the performance and for the purpose of this Contract; provided, however, that if the U.S. Government has the right to authorize the use of such information or property, Seller may, to the extent of such right, use such information or property as authorized by the U.S. Government; provided, further, that Seller give Buyer notice of such authorization prior to use and shall indemnify and hold harmless Buyer from all claims, demands, damages or causes of action caused by or in any way arising out of products manufactured by Seller using such information and property and sold by Seller to parties other than Buyer. Upon Buyer's request, and in any event upon the completion, termination or cancellation of this Contract, Seller shall return all such information and property to Buyer or make such other disposition thereof as is directed by Buyer. Seller shall not sell or dispose of as scrap or otherwise any completed or partially completed or defective proprietary property before receiving written authorization from Buyer and before rendering such property unsuitable for use. In all subcontracts and purchase orders issued by Seller for performance of work related to this Contract, Seller shall provide to Buyer the same rights and protection as contained in this clause.
12. **COMPLIANCE WITH LAWS.** Seller shall be responsible for complying with all laws, including, but not limited to, any statute, rule, regulation, judgment, decree, order or permit applicable to its performance under this Contract. Seller further agrees (1) to notify Buyer of any obligation under this Contract which is prohibited under any applicable environmental law, at the earliest opportunity but in all events sufficiently in advance of Seller's performance of such obligation so as to enable the identification of alternative methods of performance, and (2) to notify Buyer at the earliest possible opportunity of any aspect of its performance which becomes subject to additional environmental regulation or which Seller reasonably believes will become subject to additional environmental regulation during performance of this Contract.
13. **NON-WAIVER AND PARTIAL INVALIDITY.** Any and all failures, delays or forbearances of either party in insisting upon or enforcing at any time or times any of the provisions of this Contract, or to exercise any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies in those or any other instances; rather, the same shall be and remain in full force and effect. Further, if any provision of this Contract is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.
14. **GOVERNMENT REQUIREMENTS.** Within Seller's invoice or other form satisfactory to Buyer, Seller shall certify that Services covered by this Contract were produced in compliance with Sections 6, 7 and 12, Fair Labor Standards Act, as amended, and the regulations and orders of the U.S. Department of Labor issued thereunder. The Equal Opportunity clause set forth in FAR 52.222-26 is incorporated herein by reference, except "Contractor" means Seller.
15. **GOVERNING LAW.** This Contract and the performance thereof shall be governed by the laws of the State of Washington, U.S.A.

16. **DISPUTES.** (a) Any dispute or claim which cannot be settled through mutual negotiation of the parties may be presented before any court of competent jurisdiction. Except, that in regard to any claim or dispute that directly relates to or arises out of a Contracting Officer's decision concerning Seller's compliance with the Truth in Negotiations Act or Cost Accounting Standards, the Seller may request, in writing, to the Buyer that such disputes or claim be appealed to the Contracting Officer, Board of Contract Appeals, Federal Court or Appellate Court as may be appropriate. If the Buyer elects not to appeal such decision, the Seller shall have the right to invoke the remedies reserved to the Buyer under the prime contract and under the Contract Disputes Act of 1978 to prosecute an appeal in the name of the Buyer. (b) If prosecution of an appeal by the Seller requires the Buyer to provide a certification in compliance with 41 U.S.C. §605(c)(1), the parties agree that the Buyer may withhold such certification if it has a reasonable basis to believe that the Seller's claim is not made in good faith and is frivolous or constitutes a sham. (c) By filing an appeal, the Seller agrees to indemnify and hold harmless the Buyer from any all claims arising out of or directly related to the appeal including, but not limited to, liability under 41 U.S.C. §604. (d) The Buyer shall notify Seller in writing within ten (10) working days after receipt of any written decision rendered by the Contracting Officer if such decision affects the contract. Thereafter, within thirty (30) days the Buyer shall forward to Seller a copy of the Contracting Officer's decision and shall notify Seller in writing, concerning Buyer's election to appeal the Contracting Officer's decision. (e) All reasonable costs and expenses incurred by Buyer and Seller in prosecuting any appeal initiated by Buyer solely at Seller's request shall be paid by Seller; otherwise each party shall bear its proportionate share of the expenses based upon its respective share of the amount in controversy or such other allocation as the parties may agree is equitable. (f) Pending any decision upon appeal, the Seller shall proceed diligently with performance of this contract.
17. **PRICING OF ADJUSTMENTS.** When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other provision of this contract, or when the allowability of costs under this contract are to be determined, determination of such costs shall be in accordance with FAR Part 31 and, when applicable, DFARS Part 31.
18. **DEFENSE PRIORITY RATING.** If a defense priority rating is identified on the face of this contract, this is a rated order certified for national defense use and the Seller shall follow all the requirements of the Defense Priorities and Allocations Systems Regulation (15 CFR Part 700). Including accepting or rejecting this contract in writing within ten working days after receipt of DO rated or five days after receipt if DX rated. If rejected, the reason(s) for such rejection shall be included in the notice to the Buyer.
19. **ANTI-KICKBACK PROCEDURES.** Seller agrees to abide by the Anti-Kickback Act of 1986 (41 U.S.C. 51 through 58) and FAR 52.203-7, "Anti-Kickback Procedures" which is incorporated herein by reference, except that subparagraph (c)(1) of FAR 52.203-7 shall not apply to Seller, and further that in subparagraphs (c)(2), (c)(3), and (c)(5), the term "Contractor" shall mean Seller, and in subparagraph (c)(4) the term "Prime Contractor" shall mean Buyer and the term "Subcontractor" shall mean Seller. In addition to reporting possible violations of the Anti-Kickback Act to the Government pursuant to 41 U.S.C. §57(c), Seller shall report such possible violations, if related to Buyer, to the Director of Materiel and/or the Division Counsel of the Boeing division or subsidiary issuing this contract. Seller agrees to hold Buyer harmless from, defend Buyer against, and indemnify Buyer for all costs, expenses, and offsets Buyer may incur as a consequence of violations of this clause by Seller or by Seller's subcontractors or suppliers. The rights and obligations set forth in this clause shall survive completion of, final payment under, or termination of, this order.
20. **ENTIRE AGREEMENT.** This Contract sets forth the entire agreement, and supersedes any and all other agreements, understandings and communications, between Buyer and Seller and related to the subject matter of this Contract with the exception of Proprietary Information Agreements, which shall continue in force in accordance with the provisions of such agreements. No amendment or modification of this Contract shall be binding upon either party unless set forth in a written instrument signed by Buyer's Materiel Representative and an authorized representative of the Seller. The rights and remedies afforded to Buyer or Customers pursuant to any provision of this Contract are in addition to any other rights and remedies afforded by any other provisions of this Contract, by law, or otherwise.

21. **GOVERNMENT CLAUSES.** The clauses contained in the following Government regulations are incorporated by reference. Where necessary or appropriate to derive proper meaning in a subcontract situation. "Contractor" shall mean Seller. Such clauses shall be those in effect on the date of contract award.

FAR/DFARS Reference	Title
52.204-2	Security Requirements (Applies only if the contract requires access to classified information, "Government" means Buyer or the Government.)
52.211-15	Defense Priority and Allocation Requirements
52.215-19	Notification of Ownership Changes
52.219-8	Utilization of Small, Small Disadvantaged and Women-owned Small Business Concerns
52.222-1	Notice of Labor Disputes ("Contracting Officer" means Buyer.)
52.225-10	Duty-Free Entry
52.225-11	Restrictions on Certain Foreign Purchases ("Contracting Officer" means Buyer.)
52.227-1	Authorization and Consent
52.227-10	Filing of Patent Applications - Classified Subject Matter (Applies only if the contract involves access to classified material.)
52.227-11	Patent Rights - Retention by Contractor (Short Form). (Applies only if contract involves experimental, developmental or research work and Seller is a small business or non-profit organization.)
52.227-12	Patent Rights Retention by Contractor (Long Form). (Applies only if contract involves experimental, developmental or research work and Seller is <u>not</u> a small business or non-profit organization.)
52.237-2	Protection of Government Buildings, Equipment and Vegetation. (Applies only if work will be performed on a government installation. "Contracting Officer" means Buyer.)
52.242-15	Stop Work Order ("Contracting Officer" and "Government" means Buyer.)
52.247-63	Preference for U.S.-Flag Air Carriers
252.215-7000	Pricing Adjustments
252.223-7001	Hazard Warning Labels
252.223-7002	Safety Precautions for Ammunition and Explosives. (Applies only if contract involves ammunition or explosives.)
252.223-7003	Change in Place of Performance -- Ammunition and Explosives (Applies only if DFARS 252.223-7002 applies.)
252.225-7002	Qualifying Country Sources
252.225-7009	Duty-Free Entry-Qualifying Country End Products
252.225-7010	Duty-Free Entry--Additional Provisions
252.231-7000	Supplemental Cost Principles
252.247-7024	Notification of Transportation of Supplies by Sea

The following clause also applies if the contract price exceeds \$2,500:

52.222-36 Affirmative Action for Workers with Disabilities

The following clauses also apply if the contract price exceeds \$10,000:

52.222-20 Walsh-Healy Public Contracts Act

52.222-35 Affirmative Action for Special Disabled and Viet Nam Era Veterans

52.222-37 Employment Report on Special Disabled Veterans and Veterans of the Viet Nam Era

The following clauses also apply if Technical Data or Computer Software will be generated or delivered:

252.227-7013 Rights in Technical Data -- Noncommercial Items

252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Software Documentation

252.227-7018 Restrictive Marking on Technical Data

252.227-7026 Deferred Delivery of Technical Data

252.227-7027 Deferred Ordering of Technical Data or Computer Software

252.227-7029 Identification of Technical Data

252.227-7030 Technical Data - Withholding of Payment ("Contracting Officer" and "Government" means Buyer.)

252.227-7036 Declaration of Technical Data Conformity

252.227-7037 Validation of Restrictive Markings on Technical Data

If a NASA prime contract is identified on the face of this contract, the DFARS clauses set forth above are deleted and the following FAR/NFS clauses shall apply as indicated:

The following clauses apply to all contracts:

<u>FAR/NFS Reference</u>	<u>Title</u>
18-52.219-74	Use of Rural Area Small Businesses
18-52.227-70	New Technology (Applies only if the contract involves experimental, developmental or research work.)
18-52.252-70	Compliance with NASA FAR Supplement
<i>The following clauses also apply only if Technical Data or Computer Software will be generated or delivered:</i>	
52.227-14	Rights in Data-General
52.227-16	Additional Data Rights
18-52.227-14	Rights in Data--General