

GENERAL TERMS AND CONDITIONS

The party hereinafter referred to as "seller" is The Boeing Company (or wholly owned subsidiaries), the party hereinafter referred to as the "bidder" refers to all bidders under this invitation, and the party hereinafter referred to as the "buyer" is the successful bidder to whom this contract is awarded.

1. **Inspection**

Bidders are invited, urged, and cautioned to inspect the property to be sold prior to submitting a bid. Property will be available for inspection as noted on the invitation. In no case will failure to inspect constitute grounds for the withdrawal of a bid after opening, nor for any claim against Boeing or the Government. Bidder agrees to follow all posted safety rules while on Boeing property.

2. **Condition and Location of Property**

ALL PROPERTY LISTED THEREIN IS OFFERED FOR SALE "AS IS" AND "WHERE IS". While the description is based on the best available information, the seller makes no warranties, expressed or implied, as to quantity, kind, character, quality, weight, size, or description of any of the property or its fitness for any use or purpose. Scrap categories may contain trailings and/or small amounts (5% of total weight in container) of other metals/contamination. No shipment of scrap shall be subject to downgrading or rejection by buyer. If it is provided therein that the seller shall load, then "where is" means F.O.B. conveyance at the point specified in the invitation.

3. **Consideration of Bids**

Bids must be in possession of The Boeing Company, or its representative by the specified bid closing date and time. Faxed bids will be accepted only if acceptance is permitted within the individual bid solicitation. Attendance at bid openings is restricted to authorized Boeing/Government personnel unless otherwise noted. Winners will be notified and a bid summary may be mailed to each bidder as soon as possible after the closing date. The bidder agrees that his bid will not be withdrawn within ten (10) calendar days and that during such time bid will remain firm and irrevocable. The right is reserved to reject any or all bids, to waive any technical defects in bids, and unless otherwise specified in the offering or by the bidder, to accept any one item or group of items in the bid. Unless the invitation otherwise provides, bids may be submitted on any or all items. However, unless the invitation otherwise provides, a bid covering any listed item must be submitted on the basis of the unit specified for that item and must cover the total number of units designated for that item. In case of error in the extension of prices, unit prices will govern. Any bid submitted hereunder shall not become a contract until accepted by Seller and, if Seller is acting on behalf of the Government, until approved by an authorized representative of the Government.

4. **Eligibility of Bidders**

The bidder certifies that he/she is not: (1) a civilian employee of the Department of Defense, NASA, or the United States Coast Guard whose duties include any functional or supervisory responsibility for disposal of contractor inventory; (2) a member of the Armed Forces of the United States, including the United States Coast Guard, whose duties include any functional or supervisory responsibility for disposal of contractor inventory; (3) an agent, employee or immediate member of the household of personnel in (1) and (2) above.

Seller may, at its discretion and upon review of bid participation, classify bidders as inactive and remove them from the mailing list.

5. **Default**

If the buyer fails to make full payment, to remove all property by the specified date, or to comply with any other terms and conditions specified herein, the buyer will be in default of the agreement and is subject to all rights and remedies available to seller under the agreement or otherwise under law. Seller reserves the right to remove buyer from seller's approved customer bid list, sell or otherwise dispose of any or all such property and to charge losses and expenses incidental thereto, to the account of the buyer.

6. **Title**

Title to the items sold hereunder shall vest in the buyer only upon receipt by seller of full and final payment.

7. **Payment**

Prior to delivery of item, buyer shall make payment in accordance with its bid in full to seller by certified check or cashier's check, unless seller has approved buyer's company check or other method of payment. Payment in full includes all taxes applicable to the sale hereunder, unless an appropriate exemption certificate is furnished.

8. **Scrap Warranty**

Boeing considers its scrap to contain parts that are proprietary in nature. Buyer represents, warrants and certifies to the seller that this property shall be destroyed by remelting or other equally complete manner that precludes any recognition or reconstruction of the item. Buyer agrees to take the necessary measures to transport, store and process scrap in a manner that thoroughly safeguards, in the judgment of the seller, its proprietary parts from theft, loss or reuse of any kind other than for scrap. Prior to transferring any scrap to any contractor or subcontractor, buyer shall require such contractor or subcontractor to enter into an agreement to destroy and protect such scrap under terms and conditions no less restrictive than those imposed herein.

9. **Seller's Right to Inspect**

Seller shall, at any time, have the right to inspect all locations processing seller's scrap, including buyer, contractor and subcontractor facilities, to ensure property is protected and destroyed in accordance to condition 8.

10. **Weighing**

When weighing is necessary to determine the exact purchase price hereunder, weight shall be determined and supported by weight certificates issued by seller's weighmasters on seller's scales, and in the case of Buyer pickup from locations not having scales, certified weight certificates at Buyer's expense from other scales designated by Seller will be accepted. When removal is by rail, weighing shall be on railroad track scales or by other means acceptable to railroad for freight purposes. Approved weighing shall establish exact purchase price and govern the making of full payment thereon. Buyer shall accept seller's reported net weight. No adjustment shall be made for loss of any kind during shipment.

11. **Adjustment for Variation in Quantity or Weight**

When property is sold on a "unit price" basis, the Seller reserves the right to vary the quantity or weight delivered by fifteen per cent (15%) from the quantity or weight listed in the Invitation; and the buyer agrees to accept delivery of any quantity or weight within these limits. The purchase price shall be adjusted upwards or downwards in accordance with the unit price and on the basis of the quantity or weight actually delivered. No adjustment for variation shall be made where property is sold on a "price for the lot" basis, or when quantities are specified "as generated".

12. **Delivery and Removal of Property**

Specified removal dates will be strictly enforced. Unless otherwise noted in the invitation, the buyer shall be entitled to obtain the property upon payment and vesting of title of property to him/her. Pickup shall be made at the designated location, and the buyer shall remove the property at buyer expense, furnishing all personnel and equipment necessary for removal as required in bid statement of work. The buyer shall reimburse the seller for any damage to the seller's property caused by the removal operations of the buyer. If the buyer is permitted by the seller to remove the property after the expiration of the period prescribed or allowed for removal, the seller, without limiting any other rights which it may have, may require the buyer to pay a reasonable storage charge. Buyers using over-the-road vehicles, hauling light weight scrap from seller's premises, are required to cover such vehicles with tarpaulins to prevent the littering of seller's premises and highways. The buyer will be required to own or furnish evidence of his/her ability to provide and maintain equipment determined by the seller to be of proper nature and quality and of sufficient quantity to properly discharge buyer obligation for removal of scrap from seller's premises during the period of performance of this contract. Adjustments for discrepancies, which may be reported once shipment leaves the seller's site, are solely at the discretion of the seller. Please inspect material thoroughly before removal from seller's premises.

13. Dunnage Deposit Charges

A deposit will be required on Boeing dunnage. Deposit charges are as follows:

Pallets.....	\$30.00/ea	Gondolas.....	\$400.00/ea
Metal 5X5's.....	\$400.00/ea	DBL Pallet Boxes.....	\$130.00/ea
Pallet Boxes.....	\$80.00/ea	Wire Baskets.....	\$400.0/ea

All dunnage must be returned within six (6) months from the date of pickup. The Boeing Company accounting department will process a credit or refund upon return of dunnage to Surplus Sales.

14. Insurance Requirements

Throughout the period of performance of this bid activity/contract, buyer shall carry and maintain, and shall ensure that all subcontractors carry and maintain such complete automobile and general liability insurance as will protect seller against all claims for bodily injury, including death, as well as all claims for property damage which may arise from operation under this contract whether such operations are conducted by buyer, his/her respective agents or employees. Buyer shall provide the following amounts of coverage:

<u>Type</u>	<u>Amount</u>
Worker's Compensation	Statutory Limits
Employer's Liability	\$1,000,000 Each Accident
Commercial General Liability	
Bodily Injury	\$1,000,000 Each Occurrence
Property Damage	\$1,000,000 Each Occurrence
or Combined Single	\$1,000,000 Bodily Injury and Property Damage
Automobile Liability	
Bodily Injury	\$1,000,000 Per Person or Per Accident
Property Damage	\$1,000,000 Per Accident
or Combined Single	\$1,000,000 Bodily Injury and Property Damage

Certificates of Insurance

Prior to the commencement of the period of performance, buyer or bidder shall provide for seller's review and approval Certificates of Insurance reflecting full compliance with requirements set forth in the paragraph entitled "Insurance Requirements." Such certificate shall:

- a) be kept current and in compliance throughout the period of performance
- b) provide for thirty (30) calendar days advance written notice to seller in the event of cancellation or material change adversely affecting the interest of seller; and
- c) identify the cognizant seller representative and list The Boeing Company as the certificate holder.

Any policy or policies providing the insurance under paragraph entitled "Insurance Requirements" may be inspected by seller upon request.

Self-Assumption, any self-assured layer, deductibles and exclusion in coverage in the policies required under the paragraph entitled "Insurance Requirements" shall be assumed by, for the account of and at the sole risk of buyer or bidder or the subcontractor which provides the insurance and to the extent applicable shall be paid by such buyer or bidder or subcontractor. In no event shall the liability of buyer or bidder or subcontractor be limited to the extent of any of the minimum limits of insurance required under the paragraph entitled "Insurance Requirements".

15. Indemnification, Negligence of Bidder or Buyer

Bidder or buyer agrees to save the seller and the U.S. Government harmless from any and all claims, demands, actions, debts, liabilities, judgments, costs, and attorney's fees arising out of, claimed on account of, or in any manner predicated upon loss of or damage to property of, or injuries to or the death of any and all persons whatsoever, in any manner caused or contributed to by the buyer or bidder, their agents, servants or employees, while in, upon, or about the sale of the property site on which the property sold or offered for sale is located, or while going to or from such areas; and to save the seller harmless from and on account of any damages of any kind which the seller may suffer as the result of the acts of any of the buyer's agents, servants, or employees while in or about the seller's property.

Waiver of Immunity, Industrial Insurance

Bidder or buyer will not assert as a defense to this indemnification obligation any immunity under workers' compensation statutes, industrial insurance, or other source, and bidder or buyer expressly waives any immunity to the extent of the indemnity set forth in the paragraph entitled "Indemnification, Negligence, of Bidder or Buyer."

Indemnification, Subcontractors

Bidder or Buyer shall require each subcontractor to provide an indemnity, enforceable by and for the benefit of the indemnitees, to the same extent required of bidder or buyer stated under the Paragraphs entitled "Indemnification, Negligence of Bidder or Buyer" and "Waiver of Immunity, Industrial Insurance."

16. Liability

Buyer acknowledges that he/she is aware that property (including containers) sold hereunder may consist of, contain or have contained substances dangerous or harmful to persons or property and, as an inducement to seller to sell such property to buyer, buyer hereby agrees that he will not, at any time make any claim against seller for or on account of any loss or damage arising out of or in connection with the use, disposal or resale by buyer of said property. Further, buyer hereby indemnifies and holds harmless seller, its officers, agents and employees from and against any claim or liability (including reasonable attorneys' fees and all other costs and expenses incident thereto) for loss of or damage to, or loss of use of, property (including buyers property) or for an account of any personal injury, including death, arising out of or in any manner connected with (I) the sale or use of said property and further (II) any acts or omissions of buyer's or any employee or agent of buyers connected with the sale of any property hereunder.

17. Risk of Loss

After mailing notice of award and prior to date specified for removal, the seller shall be responsible only for the exercise of reasonable care for the protection of the property. After passage of title and after the date specified for removal of the property or any extension approved in writing by the seller, all risk of loss, damage, or destruction from any cause whatsoever shall be borne by the buyer.

18. Oral Representation

Any oral statement or representation by any employee of Boeing changing or supplementation this contract or any condition thereof is unauthorized and shall confer no right upon the purchaser.

19. Termination of Contract

The seller may terminate this contract without cost to the seller or the government upon writing to the buyer.

20. Addition of Special Terms and Conditions

The seller may include additional terms and conditions as required for the performance of a specific bid/contract. The additional terms must be specified in writing on the solicitation to bid and signed by an authorized representative of the seller.

21. Use of Seller's Name

Buyer agrees not to advertise in any manner the property hereby sold as being seller's surplus property or to use in any other manner seller's name in connection therewith without seller's written consent.

22. Export Control

The Parties shall comply with all US export control laws and regulations. The material sold under this Agreement may be subject to the provisions of the Export Administration Act and the Export Administration Regulations promulgated thereunder, the Arms Export Control Act and the International Traffic in Arms Regulations and the sanctions laws administered by the Office of Foreign Assets Control. The Parties acknowledge that these statutes and regulations impose restrictions on import, export and transfer to third countries of this material, and that licenses from the U.S. Department of State or the U.S. Department of Commerce may be required before such material can be transferred or disclosed, and that such licenses may impose further restrictions on use and further transfer of the material.

Buyer may be required to obtain information concerning citizenship or export status of Buyer's personnel prior to delivery of the material. Information submitted to Boeing by Buyer will be certified by an authorized representative of Supplier as being true and correct.

Buyer will not knowingly export or re-export any of the material, directly or indirectly, to any destinations controlled by the U.S. Export Law

Buyer will comply with all applicable U.S. export control laws and regulations in the event of transfer of equipment to a foreign purchaser or location, including obtaining any required export licenses.

23. Governing Law

The laws of the State of California shall govern the validity, interpretation and effort of this agreement.