

## GENERAL TERMS AND CONDITIONS OF SALE

**1. Definition.** "Seller" means "The Boeing Company" and "Buyer" is the individual, firm, or corporation when purchasing Seller's scrap. "Scrap" is the property for sale and/or sold by Seller to Buyer pursuant to this bid agreement (hereinafter "Agreement").

**2. Warranty.** All scrap is offered for sale "AS IS" and "WHERE IS." The description of scrap for sale is based on currently available information, however, SELLER MAKES NO WARRANTIES REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE KIND, CHARACTER OR EXTENT OF DEVIATION FROM DESCRIPTION OR ITS MERCHANTABILITY OR FITNESS FOR ANY USE OR PURPOSE, EXCEPT THAT SELLER DOES WARRANT ITS TITLE TO THE SCRAP.

**3. Inspection.** Buyer may inspect sample lots of scrap prior to bid opening. Samples do not create a warranty of the scrap to be sold there under as samples may differ from the scrap to be accumulated.

**4. Condition of Scrap.** No shipment of scrap by Seller will be subject to downgrading or rejection by buyer.

**5. Delivery/Removal.** Immediately upon request of Seller, Buyer shall instruct Seller as to the method of transportation for shipments to be made there under. In the event Buyer elects shipment via Buyer's own conveyance, Buyer shall furnish such conveyance at the loading point designated by Seller within 24 hours of notification by Seller that a shipment is ready. Delivery will be F.O.B. at Seller's plant or warehouse selected by Seller within the Seattle area and shall be made from time to time as Seller accumulates quantities substantially sufficient to load the type of conveyance specified in the bid list unless Buyer elects delivery by auto freight or buyer's own transportation. Where scrap is shipped by railroad car, Seller may ship any combination of classification in a single car, provided proper segregation is maintained, minimum cars and/or less than minimum cars will be shipped when specified in the bid list.

### **Payment.**

**6.1 Cash on Delivery.** Unless, Seller has extended credit, payment in full is due from Buyer upon Seller's notification to Buyer that a shipment is ready. Unless credit has been extended, Buyer shall make payment prior to delivery, which may be scheduled as early as 24 hours after Seller's notification to Buyer that a shipment is ready, as provided in Paragraph 5. Such payment shall be made in United States Dollars and in immediately available funds by certified check or cashier's check drawn on a bank mutually acceptable to Seller and Buyer.

**6.2 Credit Limits.** Customers who have been approved for credit have been limited to specific credit amounts. These limits cannot be exceeded irrespective of the following payment terms. Customer will be advised of their credit limit upon request.

**6.3 Credit Sales.** At its sole discretion Seller may extend credit to Buyer, in which case Seller will establish specific credit limits and payment terms (including any interest payments), which shall be binding upon Buyer.

**6.4. Invoices:** Buyer shall pay Seller in accordance with Seller's invoices.

**Taxes.** Payment shall include all taxes applicable to the sale there under, unless the Buyer furnishes an appropriate tax exemption certificate.

**6.5 Default.** In the event of default or breach of any payment or other provisions of this Agreement, Buyer shall reimburse Seller for any collection costs incurred by Seller, including attorney's fees and court costs.

**7. Title.** Title to the scrap sold hereunder shall vest in the Buyer only upon receipt of full and final payment.

**8. Weights.** For pickup by Buyer's truck, weight shall be determined and supported by weight certificates issued by Seller's weigh masters 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. For railcar deliveries, Seller shall obtain and report the certified railroad empty car weight and the gross car weight, and determine and report what Seller deems to be the dunnage weight for each rail shipment. Buyer shall accept Seller's reported net weight. No price adjustment shall be made for loss of any kind during shipment. Buyer is advised that a deduction has been made for estimated tare weights on the packaging of the material offered on this bid, based on the following: 50# for each Boeing type pallet; 150# for each 12 foot pallet; Small boxes with cardboard liners 44#; with no liner 30#; large boxes with cardboard liners 46#; with no liners 32#, Heavy box with built-in liner 56#.

**9. Risk of Loss.** Upon delivery to Buyer or to conveyance specified by Buyer, whichever first occurs first, all risk of delay and of loss, damage, or destruction of the scrap from any cause whatsoever shall be borne by Buyer.

**10. Damage or Loss of Seller's Property.** Buyer agrees to indemnify and make Seller whole for any damage, destruction or loss of Seller's property, which results from the acts or omissions of buyer, its agents, officers or employees. Buyer further agrees that for the purpose of this paragraph, damage, destruction or loss, including conversion, of seller's property by officers, employees or agents of Buyer shall be deemed to be within the scope of employment of said officers, employees or agents.

**11. Buyer's Indemnity.** Buyer hereby agrees to indemnify and hold harmless Seller, its subsidiaries, and their respective officers, direct, agents, and employees from and against any claim, expense, including attorney's fees, or liability whatsoever for injury to or death of any person, including any employees of Buyer, if the claim, expense or liability from or is claimed to result from (i) any acts or omissions of Buyer, Seller, or their respective officers, Agents, or employees in connection with the performance of this transaction or in connection with the presence of Buyer, its agents, or employees on Seller's premises, whether or not due to the fault or negligence of Buyer, whether or not due to the fault or negligence of Seller, and whether or not such claims be false, fraudulent or groundless, or (ii) the disposal, removal, resale or use of the scrap by any one person, or (iii) the breach of a Buyer, respective officers, agents or employees of any terms or conditions of this Agreement. In connection with the foregoing indemnity, Buyer irrevocably waives any immunity it may have under applicable industrial insurance laws.

**12. Use of Seller's Name.** Buyer agrees not to advertise in any manner the scrap as being Seller's surplus scrap or to use it in any other manner Seller's name or the word "Boeing" or any similar word, in connection therewith without Seller's written consent.

**13. Entire Agreement.** All sales will be subject to the provisions of this Agreement, including prices or other terms specifically, incorporated by reference AND NO OTHERS. This Agreement constitutes oral or written representations and agreements related to this sale, including Buyer's purchase order, which have not been incorporated and made a part of this Agreement by specific written reference. No modification of this Agreement shall be binding on Seller unless agreed to in writing signed by an authorized representative of Seller.

**14. Non-Waiver.** Acceptance by Seller of partial or delinquent payments or failure to exercise any right there under shall not waive any obligation of Buyer or right of seller, or waive any other similar default.

**15. Choice of Law.** This Agreement shall be governed by the Law of the State of Washington, exclusive of its choice of laws rules, as if to be wholly performed in the State of Washington by residents thereof.

**16. Scrap Warranty.** Scrap Warranties shall be required of successful bidders in accordance with Department of Defense, Federal Acquisition Requirement, Section, 45.7102.6, (B)(7). In addition, Buyer hereby warrants to Seller that neither Buyer nor any other person shall use or resell the scrap except as scrap material.

**17. Export Compliance Requirements.**

A. Parties shall comply with all U.S. export control laws and regulations. The (items) sold under this Agreement may be subject to the provisions of the Export Administration Act of 1979 and the Export Administration Regulations promulgated there under, 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 commodities and related data, and that licenses from the U.S. Department of Commerce or U.S. Department of State may be required before such commodities or data can be transferred, and that such licenses may impose further restrictions on use and further transfer of such commodities and data.

B. The Purchaser agrees to notify The Boeing Company and the Department of Commerce prior to any transfer to any parties outside of the United States.

**18. Mutilation of Aeronautical Parts Contained in the Scrap.**

**18.1 Acknowledgment of Scrap.** Buyer hereby acknowledges that there are Aeronautical parts contained in the scrap and Buyer agrees that metal Scrap is purchased to be used as scrap only, either in its existing condition or after further preparation.

**18.2 Destruction of Scrap Material.** The contractor shall render all Scrap material packaged, lot numbered and identified as “Material Requiring Destruction” by Boeing, unusable by any of the following methods: grinding, burning, removal of a major lug or other integral feature, permanent distortion of parts, cutting a hole with cutting torch or saw, melting, sawing into many small pieces, compression baling or compression briquetting. Contractor will keep all materials marked “Material Requiring Destruction” secure, separate from all other materials and under surveillance until destruction has occurred.

**18.3 Certificate of Destruction.** Contractor shall record the lot number from each carton marked “Material Requiring Destruction” on a “Certificate of Destruction” as material is received. Contractor shall upon receiving each container from Boeing, have one of its employees witness the destruction of all of the scrap material in each lot and sign the “Certificate of Destruction.” Boeing may, at its option, witness the destruction of each lot. Contractor will within 48 hours of the destruction of each lot provide Boeing with an executed copy of the “Certificate of Destruction”.

**18.4 Security Control.** Contractor agrees to notify Boeing within 24 hours if for any reason a container marked “Material Requiring Destruction” is opened during transportation and/or handling prior to execution of actual destruction. Contractor agrees that if cartons marked “Material Requiring Destruction” are removed from a sealed container, they shall be stored in a secured area on its premises until material has been destroyed.