

INTERIM ADMINISTRATIVE AGREEMENT

By and Between

The Boeing Company

and

The United States Department of the Air Force

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Table of Exhibits

- Exhibit A: Letter from The Boeing Company to the U.S. Department of the Air Force Re Boeing Policies and Procedures Regarding DFARS 203.7001
- Exhibit B: Summary of Enhancements to Ethics/Compliance Policies, Programs and Procedures Since May 1, 2003
- Exhibit C: Summary of Boeing Leadership Center Core Program Course Revisions to Date
- Exhibit D: Implementation Plans for Recommendations from Independent Reviews of Senator Rudman, Ethical Leadership Group and William Ide
- Exhibit E-1: EELV-Specific Protective Measures (Delta Program, Proposal Team Firewall Requirements Procedure)
- Exhibit E-2: Document Certification
- Exhibit F: Special Compliance Officer Statement of Work
- Exhibit G: Letter from The Boeing Company to the U.S. Department of the Air Force Re Legal Proceedings
- Exhibit H: Boeing Estimate of Costs of Submissions to and Appearances before the Air Force
- Exhibit I: Boeing Estimate of Costs of Response to Notice to Partially Terminate
- Exhibit J: Boeing Estimate of Costs of Bringing Self Governance, Compliance and Ethics Program to Level Acceptable to Air Force
- Exhibit K: Boeing Estimate of Costs of Administering the Interim Administrative Agreement
- Exhibit L: Statement of Salary and Benefits for Terminated Employees

INTERIM ADMINISTRATIVE AGREEMENT

This Interim Administrative Agreement ("Agreement"), effective this ____ day of _____, 2004, is made by and between The Boeing Company and the United States Department of the Air Force ("Air Force"). As used herein, "Boeing" means, without limitation, The Boeing Company's Integrated Defense Systems ("IDS"), Launch Systems, Boeing Launch Services, Delta Programs and all other operating divisions, units and wholly-owned subsidiaries of The Boeing Company, and all entities acquired or established by Boeing during the term of this Agreement.

PREAMBLE

1. On July 24, 2003, the Air Force sent a Notice of Suspensions (the "Notice") to Boeing suspending Boeing's Launch Systems, Boeing Launch Services, and Delta Programs business units (the "cited Boeing units"), from future Federal Government contracting and from receiving, directly or indirectly, the benefits of Federal assistance programs.
2. The suspensions were based on facts set forth in the Memorandum in Support of Suspensions ("Memorandum") accompanying the Notice. The Memorandum sets forth Air Force findings and conclusions based on its review of the evidence it had compiled in an administrative record.
3. As stated in the Memorandum, the suspensions were based in part upon a pending criminal investigation into Boeing's alleged unlawful possession and use of a competitor's proprietary documents in connection with the competition for a United States Air Force Evolved Expendable Launch Vehicle ("EELV") contract, and the indictment of two former Boeing employees.

4. Boeing has undertaken to demonstrate that continued suspension or debarment of the cited Boeing units from future Government contracting is not a necessary protection in this case. To that end, on August 25, 2003, Boeing submitted to the Air Force its Response to the Notice and, since that date, has supplemented the Response through additional discussions with and submissions to the Air Force. Boeing has agreed to maintain its Ethics/Compliance policies, programs and procedures voluntarily adopted prior to the events described in the Memorandum, has already enhanced or has agreed to enhance those policies, programs and procedures as specified herein, and has committed to take other specific remedial measures as set forth herein to ensure that it possesses the high degree of business integrity required of a Government contractor.

5. The Air Force believes, and Boeing will not dispute, that Federal Acquisition Regulation ("FAR") 9.407 provides adequate bases for the continuation of the present suspensions of the cited Boeing units. The Air Force has, however, determined that Boeing has implemented and committed to implement appropriate remedial measures as reflected in the terms and conditions of this Agreement to assure the Air Force that Boeing's future dealings with the Government will be conducted responsibly while the indictment and civil and criminal investigations are pending, and that the suspended Boeing units may be restored to eligibility for Government contracts and Federal assistance programs pending resolution of the indictment and investigations at issue here, subject to the rights of the Air Force to take appropriate action pursuant to this Agreement. By entering into this Agreement, the Air Force is not determining that Boeing is presently responsible for any specific Government contract. Boeing and the Air Force, therefore, agree to the terms and conditions set out below.

ARTICLES

1. **SUSPENSIONS**. The suspensions referenced in the Notice will be promptly terminated, without prejudice, following execution of this Agreement by the Air Force.

2. **PERIOD OF THE AGREEMENT**. The Agreement shall become effective upon its execution by the Air Force. At the date of execution of this Agreement, the period of the Agreement is indefinite. The period may become fixed in the future, however, by operation of this Article 2.

a. If Boeing is either not charged with, or is acquitted of criminal offenses relating to the matters set out in the Notice and Memorandum, the terms and conditions of this Agreement shall continue in force and effect and the period of the Agreement shall be fixed as three years from the date of the execution of this Agreement by the Air Force.

b. If Boeing is charged with, or convicted of a criminal offense, or a civil judgment is obtained against Boeing by the Department of Justice ("DOJ"), relating to any of the matters described in the Notice and Memorandum, the period of this Agreement will not become fixed, but the Air Force will reconsider the need for the suspension or debarment of Boeing in light of all information then available. During any such period of reconsideration, the terms and conditions of this Agreement will remain in effect, except that the Air Force may unilaterally initiate proceedings to suspend or debar Boeing, unless, prior to the initiation of such proceedings, Boeing is acquitted of all charges and all indictments and DOJ civil actions are dismissed.

c. As used herein, the term "Agreement" shall mean this Interim Administrative Agreement and any fixed-period agreement that may follow pursuant to this Article 2.

3. **ETHICS AND COMPLIANCE PROGRAM.** Boeing has implemented and agrees to maintain its Ethics/Compliance policies, programs and procedures, as more fully described in Exhibit A. Boeing has enhanced or has agreed to enhance such policies, programs and procedures as described below, and as summarized in Exhibit B.

a. **General Ethics and Compliance Policies and Procedures.** Boeing has had and continues to have in place Ethics/Compliance policies, programs, procedures and training, implemented through a substantial supporting infrastructure, that govern its general business ethics and conduct. Boeing's Policy-2, Ethical Business Conduct, sets forth Boeing's guiding principles and standards for ethical business conduct and integrity and establishes the responsibility of individual employees to adhere to those principles and to comply in full with all applicable laws and regulations. This policy is implemented in Boeing's Procedure-3, Ethics and Business Conduct Program.

b. **Management Involvement and Overall Integration of Ethics/Compliance Program.**

(i) **Boeing Office of Internal Governance.** As of November 11, 2003, Boeing established an Office of Internal Governance, headed by a Senior Vice President who reports directly to the Chief Executive Officer. This Office will have responsibility for Ethics, Internal Audit, Import-Export Compliance, the Compliance Assessment Process, oversight of the International Services Contractor process and Foreign Sales Consultants and other closely-regulated matters.

(ii) **IDS Compliance Assessment Team and Compliance Review Board.** IDS has established an institutional mechanism for senior management to regularly oversee and raise

questions on compliance issues and to ensure follow-up on resulting corrective actions.

Specifically, IDS has taken the following steps.

(a) IDS has established a “Compliance Assessment Team,” chaired by the Vice President, IDS Ethics, to be responsible for establishing and executing robust compliance processes and procedures consistent with the Compliance Assessment Process (“CAP”), a program established by Boeing Procedure-3175 and designed to assure that Boeing has effective programs in place to prevent and detect violations of law and regulation. The Team will accomplish this by reviewing substantially all compliance-related allegations and investigations, gathering other data, providing analysis of data, providing descriptions of strategies and initiatives to create improvements generated by Boeing’s Process Councils, and assessing and recommending infrastructure changes supportive of the foregoing objectives. This Team will meet on a regular basis and be comprised of senior representatives of IDS’s businesses and functional areas. The Team will report quarterly to the “Compliance Review Board” discussed below.

(b) IDS has established a “Compliance Review Board,” chaired by the IDS President and with membership drawn from senior IDS general managers and functional area heads (all of whom are “direct reports” to the IDS President). The Board will meet quarterly in person to receive reports from the above-referenced Compliance Assessment Team and to address ethics/compliance issues brought to its attention by the Team and other sources within IDS. The responsibilities of the Board include (a) making certain that the Team is meeting its objectives of properly sharing and responding in an integrated fashion to ethics/compliance issues and actions generated by the Compliance Assessment Process, (b) ensuring that risk areas have been properly identified and prioritized, (c) assessing whether IDS’s

ethics/compliance processes are effective, (d) analyzing ethics/compliance trends, (e) evaluating “lessons learned” from any incidents of ethical misconduct, (f) identifying and following up on corrective actions and policies as needed to ensure the continued effectiveness of the Ethics/Compliance program, and (g) receiving regular reports from the Compliance Assessment Team and others on the details and status of all significant compliance-related allegations and investigations, including the disclosures and non-disclosures of such allegations and investigations that have and have not been made to the Government and to others outside of Boeing. The Board, in turn, will report quarterly on significant allegations and investigations, and on ethics/compliance matters to the IDS Leadership Team, which consists of vice presidents and general managers of IDS business units and direct functional reports to the IDS President, and to Boeing’s CEO.

(iii) Boeing Code of Conduct and Employee Certification. In January 2004, the Boeing Chairman and President and Chief Executive Officer instructed all Company managers to request that all Boeing employees under their supervision read the Code of Conduct and then sign an Employee Certification confirming that they understood and would comply with the Code. Managers were directed to distribute the Code and Certification and communicate with their staffs to emphasize the Company’s commitment to integrity, to answer any employee questions and to address any related concerns. All Boeing employees – including the Chairman, members of the Executive Council, all other executives, and all managers and employees – engaged in this process. Boeing’s Senior Vice President, Office of Internal Governance, and Vice President of Ethics provided specific information and instruction to the managers, including an explanation of the process and the managers’ role, presentation materials and a set of questions and answers.

c. **Marketing Policies and Procedures.** Boeing also has promulgated procedures that govern marketing in general and marketing to the Government in particular. Such procedures include Procedure-4, Proper Marketing Practices, and Procedure-5, Proper Marketing Practices-Marketing to the U.S. Government. As of October 31, 2003, Boeing issued enhancements to these marketing procedures, respectively, (i) to require that new employees disclose any previous employment relationship with a Boeing competitor and (2) to describe the specific procedures that must be followed to determine the propriety of receipt and/or use of Government, third-party proprietary or competition-sensitive information.

d. **Procurement Integrity.** Boeing has revised its procedures to address further the requirements of and the necessity for employees to comply with the Procurement Integrity Act (“PIA”) and its implementing regulations, as well as related statutory and regulatory mandates. Specifically, effective August 5, 2003, Boeing issued a revised and strengthened Procedure-70, Procurement Integrity, to, among other things, (i) incorporate requirements to comply with the provisions of the Economic Espionage/Theft of Trade Secrets Act, the Stealing or Conversion of Government Property or Records Act, and the Uniform Trade Secrets Act, (ii) strengthen the requirements for employee reporting of potential PIA violations, and (iii) specify that the Law Department would notify an appropriate level of business management of its investigations of possible PIA violations and their outcome.

e. **Ethics/Compliance Training.**

(i) Boeing has a long-standing Ethics/Compliance training program for new and existing employees.

(ii) Beginning on August 27, 2003, Boeing instituted a review of the curriculum of its core leadership programs at the Boeing Leadership Center – which already

contained ethics/compliance components – to consider revisions to those programs to further strengthen their ethics content, including, for example, by addressing the issues raised by the EELV and Exoatmospheric Kill Vehicle (“EKV”) incidents addressed in the Memorandum. Exhibit C summarizes the revisions made to date in the BLC’s core programs as a result of that review.

(iii) Boeing will continue to use its Compliance Assessment Process to evaluate the efficacy of the procedures and training programs designed to ensure protection of third-party information. In that regard, for the 2004 Compliance Assessment Process, Boeing will expand the procurement integrity Compliance Risk Area beyond PIA to include the Economic Espionage/Theft of Trade Secrets Act, the Stealing or Conversion of Government Property or Records Act, and the Uniform Trade Secrets Act.

(iv) IDS held an “Ethics Recommitment Day” and associated training sessions on July 30, 2003, for 70,000 Boeing employees. Boeing has provided the Air Force with copies of the materials presented or used during this training. Boeing will conduct similar company-wide events in 2004 and, thereafter, evaluate the need for and content and format of further events. But IDS will conduct similar events on an annual basis.

(v) IDS will provide to competitive assessment and capture teams the same training regarding procurement integrity as that provided to proposal teams at the time each such team is formed. IDS has also implemented or will implement additional procedures in response to recommendations 7, 11 and 12 made by former Senator Warren Rudman in his report referenced in Article 3.h.(i).

(vi) IDS also has revised its training materials to (a) reemphasize the requirement for employees to report all potential violations to the Law Department or Ethics

Office, (b) address requirements imposed by the Economic Espionage Act/Theft of Trade Secrets Act, the Stealing or Conversion of Government Property or Records Act and the Uniform Trade Secrets Act and (c) cover additional requirements contained in United States Department of Defense regulations addressing the release of procurement-related information.

(vii) Boeing has improved, and commits to further improve its Ethics Office in a number of respects. In January 2004, Boeing Ethics Advisors began directly reporting through a centralized Boeing World Headquarters organization headed by Boeing's Vice President of Ethics, who reports to the Senior Vice President, Office of Internal Governance, who reports directly to Boeing's Chief Executive Officer. Further, Boeing will within one year from the date of this Agreement revise its Ethics program so that all Ethics Advisors will serve as ethics advisors on a full time basis.

f. **Hiring and Employment Policies and Procedures.**

(i) As of September 2, 2003, Boeing revised its policies and procedures applicable to hiring and employment in the following respects: (a) each offer letter places the offeree on notice that he/she must not bring proprietary or confidential documents or information to Boeing and that the offer of employment is conditioned on the offeree certifying in writing that he/she does not improperly possess any confidential or proprietary information; (b) as a condition of hire, each new employee will be required to sign a certification that he/she (1) does not possess any proprietary documents (either hard copy or electronic) of other companies; (2) will not attempt to obtain any materials or information from other companies except in accordance with relevant law and established Boeing procedures; and (3) will not obtain or reveal any other companies' proprietary information while a Boeing employee ; (c) a revised ethics training module has been implemented for new employees that includes a video message

from Boeing's executive management concerning Boeing's commitment to ethics; and (d) a revised Intellectual Property and Confidentiality Agreement has been prepared to specifically prohibit possession or use of third-party proprietary information.

(ii) With respect to consultants, Boeing is reviewing (and, as appropriate, revising) its standard consultant agreement and related procedure to ensure that those documents are clear that consultants are subject to the same ethics/compliance requirements as employees.

(iii) With respect to contract labor, Boeing is reviewing (and, as appropriate, revising) its standard forms for engagement of contract labor and related procedure to ensure that those documents are clear that contract labor is subject to the same ethics/compliance requirements as employees.

g. **Law Department Internal Investigation Policies and Procedures and Other Remedial Measures.**

(i) The Boeing Law Department has adopted, as of September 12, 2003, revised procedures for investigations of potential PIA violations, and has provided a copy of such procedures to the Air Force.

(ii) The Law Department has used the foregoing revised procedures for potential PIA violations as the basis for its internal investigation procedures, and has implemented substantially similar procedures for all internal investigations.

(iii) The Law Department held a training "Stand-down" on October 1, 2003, for all Law Department attorneys and paralegals to train the legal staff in the new internal investigation procedures, review the "lessons learned" from the incidents described in the Notice and Memorandum and discuss additional ways in which the Department's procedures might be modified to support more effectively the Ethics/Compliance program.

(iv) Boeing retained an independent consultant to conduct a review of the Boeing Law Department's internal investigation policies and procedures, to include a review of the portals through which the Law Department becomes aware of matters to be investigated. The consultant has provided a report to the Air Force and to the Boeing Board of Directors, and Boeing has provided a report to the Air Force setting forth the changes in policies and procedures that Boeing has implemented, or will implement, in response to the consultant's report. (Ex. D)

h. Outside Ethics/Compliance Reviews.

(i) Boeing retained former Senator Warren Rudman to undertake an independent review of its ethics/compliance procedures and policies relating to the treatment of sensitive or confidential competitor information. Boeing has provided this report to the Air Force, as well as a submission identifying the changes in policies and procedures that Boeing has implemented, or will implement, in response to and/or in addition to the recommendations of the review. (Ex. D)

(ii) Boeing retained former Senator Warren Rudman to undertake an independent review of its ethics/compliance procedures and policies relating to Boeing's recruiting, hiring and employment of government employees. Boeing has provided this report to the Air Force, as well as a submission identifying the changes in policies and procedures that Boeing has implemented, or will implement, in response to and/or in addition to the recommendations of the review. (Ex. D)

(iii) Boeing retained the Ethical Leadership Group to conduct an outside, independent review of Boeing's policies and procedures relating to ethics/compliance generally and has provided the results of this review to the Air Force, as well as a submission identifying

the changes in policies and procedures that Boeing has implemented, or will implement, in response to and/or in addition to the recommendations of the review. (Ex. D)

(iv) Boeing will retain a consultant (acceptable to the Air Force) to conduct an additional outside, independent review of its ethics and compliance policies and procedures, and will provide a copy of the report of its review, and recommendations, to the Air Force between twenty-eight and thirty months following the effective date of this Agreement. Within two months of the issuance of the report, Boeing will provide to the Air Force a submission identifying the changes in policies and procedures, if any, that Boeing has implemented, or will implement, in response to the report.

4. **SPECIFIC PROTECTIVE MEASURES.** In addition to the foregoing initiatives addressing its overall ethics/compliance policies, programs and procedures:

a. IDS has implemented and will continue to implement specific protective measures relating to all EELV competitions to eliminate any concern that such competitions may be tainted by the events set forth in the Memorandum. Exhibit E-1 sets forth these protective measures initiated by Boeing in order to preserve the integrity of future competitions. In drafting these measures, Boeing sought, received and in many cases incorporated comments from the Air Force's Space and Missile Systems Center ("SMC"). The Air Force considers Boeing's commitment to these measures and willingness to accept comments from SMC, along with other factors, as evidence of Boeing's present responsibility. Boeing represents to the Air Force that it has implemented these protective measures.

b. Boeing has undertaken and will continue to undertake good faith efforts as detailed and certified in Exhibit E-2 to identify, collect and secure or destroy possibly tainted competitive cost or pricing information.

5. SPECIAL COMPLIANCE OFFICER.

a. Boeing has, at its expense, appointed an independent "Special Compliance Officer" ("SCO"), acceptable to the Air Force, to oversee Boeing's implementation of the measures outlined in this Agreement. The SCO will develop (in coordination with Boeing) a Compliance Monitoring Plan ("CMP") and submit it to the Air Force for approval within sixty (60) days of the execution of the Agreement. The SCO will report to Boeing management and the Air Force on the SCO activities and Boeing's compliance with the Agreement within sixty (60) days of the Air Force's approval of the CMP, each month thereafter for the first year of this Agreement and quarterly in subsequent years of the Agreement. Exhibit F sets forth the statement of work for the SCO.

b. The SCO's periodic reports under Article 5.a above will include the SCO's identification of all Boeing competitive U.S. Government proposals greater than \$500 million, and of all Boeing proposals in U.S. Government "competitive procurements" (as defined in Ex. E-1) for launch vehicles or launch services regardless of amount, submitted during the reporting period and the SCO's certification as to those that were and those that were not prepared in accordance with Boeing's policies and procedures for the preparation of such proposals. In the event the SCO certifies to Boeing's non-compliance with its policies and procedures, the SCO will report such non-compliance promptly in accordance with section 4.2.3 of the SCO's statement of work.

c. Between four and six months after Air Force approval of the CMP, the SCO will provide an initial independent report of Boeing's compliance activities to the Air Force and Boeing's CEO. This report will describe the SCO's activities and Boeing's compliance activities

for the period covered by the report. The report will also propose, in coordination with the Air Force and Boeing, any changes to the CMP the SCO believes to be appropriate.

d. Between three and five months prior to the expiration of the Agreement (or a date otherwise established by the Air Force), the SCO will provide a final independent report of Boeing's compliance activities to the Air Force and Boeing's CEO. This report will describe in detail the SCO's activities since the SCO's engagement and the extent to which Boeing has complied with the Agreement since its effective date based on the SCO's experience with the CMP through the date of the report.

e. The Air Force and Boeing recognize that there will be a need for the SCO and some members of his team to have security clearances in order to perform the monitoring functions specified in this Article 5.

6. **REPORTS.** Within sixty (60) days of the execution of this Agreement, and each month thereafter for the first year of this Agreement, and quarterly in subsequent years of the Agreement, the Boeing Senior Vice President, Office of Internal Governance, shall submit a written report to the Air Force describing the measures taken by Boeing during the reporting period to ensure compliance with the Agreement. The reports will be submitted in time to be received at the Air Force within ten (10) days of the end of the month being reported, or within twenty (20) days of the end of the last month of the quarter being reported. Boeing's failure to meet these requirements on or before the dates agreed to shall constitute a material breach of the Agreement. The reports shall include:

a. A description of standards of conduct/ethics/compliance training conducted by Boeing, and the number of persons who attended.

b. Notification of initiatives relating to the Ethics and Business Conduct Program, including the status of all remedial measures Boeing has committed in this Agreement to implement.

c. The status of all (i) known ongoing criminal, civil and administrative investigations and proceedings conducted by any government entity with regard to any allegation relating to Boeing's or its employees' business integrity; (ii) all investigations conducted by Boeing involving allegations of fraud or criminal offenses by (a) Boeing employees and/or consultants for the benefit of Boeing where there is evidence of possible willful misconduct or (b) Boeing subcontractors in connection with obtaining or performing a subcontract under a Boeing U.S. Government prime contract or subcontract where there is evidence of possible willful misconduct by the subcontractor; and (iii) all other matters that Boeing's General Counsel, its Senior Vice President of Internal Governance, or the IDS President, determines may bear on the present responsibility of Boeing. The content of the reports contemplated in Articles c.(i) – (iii), as well as Articles 6.d and 6.f below, are subject to considerations of the attorney-client and attorney work product privileges, any court orders limiting such communications and restrictions on disclosures for national security reasons. Such considerations may affect the content of the reports, but will not obviate Boeing's obligation to include such matters in its reports to the Air Force.

d. A report identifying all calls made to the confidential toll-free Ethics Line and all inquiries received by Boeing Ethics Advisors (regardless of subject matter), including without limitation all inquiries and formal investigations as entered into the Ethics Administration System. Such reports shall identify such calls and inquiries by the categories and subcategories currently used by Boeing, provide the ongoing status of the matter and describe the final

resolution of the matter. Matters pending resolution at the end of a reporting period shall be reported in each subsequent report until final resolution of the matter is reported. The parties will review this reporting requirement six months after execution of this Agreement to determine its continued necessity. Absent agreement by both parties, in writing, the reporting requirement will continue as set forth herein.

e. The status of the criminal case and criminal and civil investigations referenced in the Preamble hereto.

f. A list of all voluntary disclosures regarding export compliance made by Boeing to the Departments of State and/or Commerce during the reporting period.

g. In addition to the reports and information identified above, Boeing will notify the Air Force promptly upon Boeing management first learning of any of the proceedings set out in Article c.(i) above. Boeing will at the time of the initial notice of such matters, and thereafter at the Air Force's request, provide the Air Force with available information Boeing has reasonably determined to be accurate to allow the Air Force to assess the potential impact of the investigation or matter upon the present responsibility of Boeing for Federal Government contracting. Failure of the Air Force to request further detailed information will not negate Boeing's obligation to periodically report on the status of investigations and proceedings as required by Article c.(i).

h. During the term of this Agreement, Boeing's Office of Internal Governance will provide the Air Force with a summary of any analysis it has conducted regarding Boeing's Ethics and Business Conduct Programs.

7. **FUTURE ACTION.**

a. If criminal charges are initiated by any government entity against any current Boeing employee for alleged wrongdoing in connection with the matters referenced in the Notice and Memorandum, or for any other misconduct relating to business integrity, Boeing will notify the Air Force within 10 days of learning of such criminal charges and immediately remove that employee from direct charge work on any Government contracts. Upon conviction, such employee(s) shall be terminated.

b. If Boeing becomes aware of newly-discovered facts as to the involvement of any current or former employee in alleged wrongdoing related to the EELV or EKV matters referenced in the Notice and Memorandum or of any other matter within the scope of the Central District of California's investigation of the EELV competition, or of any prosecutor's determination that any such employee is a target or subject of a criminal investigation related to such matters, Boeing will so notify the Air Force within 10 days of learning of such facts or determination.

c. Boeing represents that it will continue to cooperate with the Department of Justice in its criminal and civil investigations and legal proceedings (i) in the C.D. California, in connection with the allegations set out in the Preamble of this Agreement, and related matters, and (ii) in the E.D. Virginia, in connection with the allegations involving Boeing's hiring of a former Air Force official in late 2002.

8. **PROPOSED CHANGES.** Boeing shall notify the Air Force of any proposed material changes in the Ethics/Compliance policies, programs and procedures referenced in Articles 3 and 4. No material change shall be implemented if the Air Force objects in writing within 10 days of such notification.

9. **VOLUNTARY DISCLOSURES.** It is not a requirement of this Agreement that Boeing participate in any Voluntary Disclosure Program. If, however, Boeing does so participate, during the term of this Agreement Boeing will provide to the Air Force copies of all such Disclosures not otherwise reported pursuant to Article 6.f. contemporaneously with the Disclosure to the Department of Defense Inspector General and/or other agencies. It is the intention of the Air Force that the requirements of this Agreement relating to required Disclosures by Boeing to the Air Force should not render involuntary a Disclosure made pursuant to any Voluntary Disclosure Program.

10. **LEGAL PROCEEDINGS.** Boeing represents to the Air Force that, to the best of Boeing's knowledge, Boeing is not now the subject of any criminal or civil investigation by, or involved in any criminal or civil litigation with, any Governmental entity within the scope of Article 6.c.(i), except as reported to the Air Force by letter dated September 18, 2004 (Ex. G).

11. **MEETINGS.**

a. Between three and five months after the effective date of this Agreement, and three months prior to its termination, the Boeing Chief Executive Officer will meet with the Air Force to discuss compliance with this Agreement. At least annually after the effective date of this Agreement, the IDS President shall meet with the Air Force to discuss compliance with this Agreement.

b. Boeing's Senior Vice President, Office of Internal Governance, IDS's Senior Vice President and General Manager, Air Force Systems, and a representative of the Law Department will meet at least quarterly with the Air Force to discuss compliance with this Agreement and other related matters.

12. **DISCIPLINARY ACTION.** Boeing has taken disciplinary action against certain current and former employees, identified to the Air Force in a letter dated October 7, 2003, for having violated Boeing's policies and procedures for the handling of proprietary information or for having otherwise not acted properly in connection with the EELV matter referenced in the Notice and Memorandum. Boeing shall not re-employ (in any capacity, including as an employee, consultant, contract labor or otherwise) any former employee identified in the October 7, 2003 letter as having been terminated.

13. **ACCESS TO RECORDS.**

a. In addition to any other right that the Air Force may have by statute, regulation, or contract, and that the SCO has pursuant to this Agreement and the SCO Statement of Work, the Air Force, the SCO, and their duly-authorized representatives may, solely and as reasonably necessary for the purpose of verifying and evaluating Boeing's compliance with the terms of this Agreement, examine Boeing's non-privileged books, records and other documents and supporting materials.

b. The materials described above shall be made available by Boeing at all reasonable times for inspection and audit.

c. For the purposes of subparagraph a. of this Article, the Air Force, the SCO or their authorized representatives may interview any Boeing employee, who consents to be interviewed, at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed between the employee and the interviewer. Consistent with Boeing policy, employees may elect to be interviewed with or without their own counsel or a representative of Boeing present.

14. COSTS OF REVIEW. Boeing has paid the Air Force \$1.9 million to reimburse the Air Force's costs of independently reviewing this matter and administering this Agreement.

15. UNALLOWABLE COSTS.

a. Boeing agrees that all costs relating to legal and other proceedings specified as unallowable by FAR 31.205-47, incurred by, for, or on behalf of Boeing or any current or former officer, director, agent, employee, consultant, or affiliate of Boeing shall be expressly unallowable costs for Government contract accounting purposes. Unallowable costs include, but are not limited to, (i) costs arising from, related to, or in connection with the Government's criminal and civil investigations and legal proceedings regarding those matters referenced in the Notice and Memorandum and (ii) not less than \$212,651, representing Boeing's good faith estimate through September 30, 2004 (per Ex. H) of the costs of Boeing's submissions, presentations to, and appearances before the Deputy General Counsel for Contractor Responsibility, from March 21, 2003, through the date of execution of this Agreement. All damages, restitution, fines and penalties levied or to be levied in, or arising out of the matters referenced in the Notice and Memorandum, are agreed to be expressly unallowable costs, and Boeing agrees to account separately for such costs.

b. Boeing also hereby agrees to treat as unallowable the following costs identified in subparagraphs (i) – (viii) below: (i) the amount of the payment referred to in Article 14 of this Agreement; (ii) the costs of the reviews referenced in Articles 3.g. and 3.h. of this Agreement; (iii) \$96,532 representing Boeing's good faith estimate (per Ex. I) of the costs of responding to the Air Force's July 24, 2003 "Notification of Intent to Exercise Government's Right to Partially Terminate Contract No. F04701-98-D-0002 for Default for Good Cause" that was subsequently converted to a deductive contract change; (iv) all costs in *Lockheed Martin Corp. v. The Boeing*

Co., William Erskine, Kenneth Branch, and Larry Satchell, U.S. District Court for the Middle District of Florida, Orlando Division, Case No. 6:03-CV-796-ORL-29-KRS; provided, however, that these costs shall be allowable to the extent permitted under the FAR in the event Boeing is the prevailing party in the litigation by achieving the benefit of dismissal or denial of all counts through motion or trial (without the payment by Boeing of any consideration); (v) the costs of the Special Compliance Officer established pursuant to Article 5 of this Agreement; (vi) \$27,539,996, representing Boeing's good faith estimate (per Ex. J) of the costs of preparation and promulgation of enhanced policies, programs and procedures to bring Boeing's self governance, compliance, and/or ethics programs to a level acceptable to the Air Force, including the costs of IDS's 2003 Ethics Recommitment Day, the Boeing Law Department's 2003 "Stand-Down Day," and 2003 Recommitment Days held by other Boeing units, as represented to the Air Force in Boeing's submissions and in Exhibit B to this Agreement; (vii) \$1,687,142/year through the expiration of this Agreement, representing Boeing's good faith estimate (per Ex. K) of the costs of administering this Agreement; and (viii) \$2,196,518, representing the full salary and benefits costs (per Ex. L) for the periods indicated of the former Boeing employees identified in Exhibit L.

c. Boeing's costs of operating and maintaining its enhanced self governance, compliance, and/or ethics policies, programs and procedures are an allowable category of cost for purposes of this Agreement, subject to reasonableness determinations by the appropriate contracting officer.

d. Boeing recognizes that costs that are agreed to be unallowable under the terms of this Article are to be accounted for under Cost Accounting Standard 405 and FAR 31.201-6 as costs that are mutually agreed to be unallowable. As such, they are to be identified and excluded

from any billing, claim or proposal, regardless of any other agreement to the contrary. Boeing shall identify such costs within 90 days of the date of this Agreement. Boeing shall adjust any bid rate, billing rate, or unsettled final indirect cost rate pools to eliminate any costs made unallowable by this Agreement, and shall advise the Air Force, the Corporate Administrative Contracting Officer ("CACO") and the cognizant Government auditor of the amount, nature, and accounting given to such costs within 90 days of the date of this Agreement. The Air Force or a designated representative shall have the right to audit Boeing's books and records to verify compliance with this Article 15.d. Such audit rights shall be in addition to any audit rights the Government may have under the terms of any contract with Boeing.

e. The identification of certain categories of costs as allowable for the purposes of this Agreement is not a determination that the costs are reasonable and is not binding on the CACO or other agencies' determinations of allowability under the FAR.

16. **ADVERSE ACTIONS.** Any adverse actions taken, or to be taken, by Boeing against any employee or other individual associated with Boeing arising out of or related to alleged wrongdoing related to the EELV and/or EKV matters referenced in the Notice and Memorandum were solely the result of Boeing's initiatives and decisions and not the result of any action by, or on behalf of, agents or employees of the United States.

17. **STATUS OF SUSPENSIONS.**

a. The Air Force enters into this Agreement, and will terminate the suspensions, subject to the conditions of this Agreement, in reliance upon Boeing's faithfully fulfilling the terms and conditions of this Agreement. The Air Force's decision to terminate the suspensions, based upon the information available to the Air Force, shall not restrict the Air Force or any other agency of the Government from instituting administrative action, including, without

limitation, suspension or debarment, should information indicating the propriety of such action come to the attention of the Air Force or such other agency.

b. The Air Force and Boeing recognize that DOJ criminal and civil investigations ("the DOJ investigations") are continuing regarding the EELV and EKV incidents referenced in the Notice and Memorandum. If Boeing is either not charged with, or is acquitted of criminal offenses relating to those incidents, the Air Force will not reinstate the suspensions, or initiate debarment proceedings based upon the DOJ investigations. If, however, Boeing is charged with or convicted of a criminal offense, or a civil judgment is obtained by the DOJ, relating to one or both of those incidents, the Air Force will reassess the need for the protection of suspension or debarment.

c. If the Air Force determines that suspension or debarment is necessary on the basis contemplated by subparagraph b. above, on the basis of newly discovered evidence relating to the matters in the Notice and Memorandum, or because of Boeing's violation of this Agreement, Boeing shall have an opportunity, not to exceed fifteen (15) days, to demonstrate its present responsibility with respect to such determination. If the Air Force determines that Boeing is unable to do so, the Air Force shall not be restricted from instituting administrative actions, including, without limitation, suspension or debarment.

d. This Agreement will not restrict the Air Force or any other agency of the Government from instituting administrative actions, including, without limitation, suspension or debarment, based upon facts or circumstances outside the scope of the Notice and Memorandum.

18. **NOTIFY EMPLOYEES.** Boeing will notify its employees, consultants and contract labor of the fact and substance of this Agreement, the nature of the unethical conduct leading to

the Agreement, and the importance of each individual's compliance with the terms of the Agreement and all requirements of law, regulations, and Boeing policies and procedures.

19. **REORGANIZATIONS WITHIN BOEING.** If any Boeing units subject to provisions of the Agreement that are applicable only to IDS are reorganized into other parts of Boeing outside of IDS during the term of this Agreement, such units will remain subject to the IDS-related provisions of the Agreement regardless of where those units are located in Boeing's corporate organization.

20. **SALE OF BOEING BUSINESSES.**

a. In the event that Boeing, during the term of the Agreement, sells or transfers ownership of any of the cited Boeing units, Boeing shall notify the Air Force in advance of closing and require by the terms of the transfer that the new owner maintain in the transferred unit(s) an ethics/compliance program generally comparable to the ethics/compliance program in existence at the cited Boeing units and further require that the new owner shall be accountable to the Air Force for compliance by the transferred unit(s) with other applicable terms of the Agreement.

b. In the event that Boeing, during the term of the Agreement, sells or transfers ownership of any other significant unit(s) of IDS (i.e., representing more than 5% of IDS's sales), Boeing shall notify the Air Force in advance of closing and require by the terms of the transfer that the new owner maintain an ethics/compliance program sufficient to establish the continued present responsibility of the transferred unit(s), to the satisfaction of the Air Force.

c. In the event of a sale or transfer involving an IDS business unit accounting for less than 5% of IDS's sales, Boeing shall notify the Air Force in advance of closing.

21. **COMPANY PURCHASE OF BUSINESSES.** In the event that Boeing purchases or acquires new business units after the effective date of this Agreement and prior to the end of the term of this Agreement, Boeing shall implement all provisions of this Agreement, and all its ethics policies and procedures in the new business(es) within 180 days following such purchase or acquisition.

22. **PRIVILEGES.**

a. No provision of this Agreement shall be construed to require the waiver of any applicable privilege, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

b. The Air Force will not make any public release outside of the Government of documents or records required by this Agreement to be submitted, except where release is required by the Freedom of Information Act, 5 U.S.C. § 552, and other laws. Before making any such public release, the Air Force, in accordance with Air Force and Department of Defense policy, will provide Boeing with an opportunity to comment as to whether the records or documents are required to be released. Boeing agrees that this Agreement is a public document.

23. **RELEASE.** Boeing hereby releases the United States Department of the Air Force and its employees from any and all liability or claims arising out of or related to the suspensions, the investigation of Boeing's present responsibility at issue here, and the discussions leading to this Agreement.

24. **PARAGRAPH HEADINGS.** The paragraph headings in this Agreement are inserted for convenient reference only and shall not affect the meaning or interpretation of this Agreement.

25. **COUNTERPARTS**. This Agreement may be executed in one or more counterparts each of which shall be an original, but all of which, taken together, shall constitute one and the same Agreement.
26. **AIR FORCE RELIANCE**. Boeing represents that all written materials and other information provided to the Air Force by its authorized representatives during the course of discussions with the Air Force in response to the Notice and Memorandum are true and accurate, to the best information and belief of Boeing. Boeing understands that in executing this Agreement the Air Force relies upon the truth, accuracy and completeness of all such representations.
27. **ENTIRE AGREEMENT**. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether oral or written, relating to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.
28. **RESTRICTION ON USE**. The parties agree that the negotiation or existence of this Agreement, or of any provision of the Agreement, shall not be admissible or used in any proposal, contract, proceeding, litigation or investigation; provided, however, that Boeing shall not be prohibited from: (a) in the case where a Government Contracting Officer is considering Boeing's responsibility for a particular contract, notifying the Contracting Officer of the existence of the Agreement and referring the Contracting Officer to the Air Force Deputy General Counsel (Contractor Responsibility) to secure a copy of the Agreement; (b) in the case of a bid protest action at the General Accounting Office ("GAO") or U.S. Court of Federal Claims ("COFC") challenging Boeing's present responsibility and/or eligibility for a particular contract, notifying the GAO or COFC of the existence of the Agreement and requesting that the

Air Force provide a copy of the Agreement for the record in the protest action; (c) in the case of any criminal or civil litigation based on the allegations in the Notice and Memorandum, requesting in writing that the Air Force permit Boeing to refer to and/or offer into evidence, to the extent permitted by law, the Agreement in response to allegations and/or submissions relating or referring to the Air Force's suspension of the cited Boeing units; (d) in the case of settlement discussions relating to civil or criminal proceedings initiated by a governmental entity based on the allegations in the Notice and Memorandum, notifying the entity of the existence of the Agreement and referring the entity to the Air Force Deputy General Counsel (Contractor Responsibility) for a copy of the Agreement; (e) offering into evidence or using in a proposal, contract, proceeding, litigation or investigation the fact of any remedial or other action taken by Boeing otherwise referenced in the Agreement; or (f) using for any purpose an Exhibit to the Agreement. In any such case where Boeing or another party requests a copy of the Agreement, the Air Force will provide the Agreement as requested.

29. **AUTHORIZED REPRESENTATIVE.** Harry C. Stonecipher, Boeing's Chief Executive Officer, is fully authorized to execute this Agreement and represents that he has authority to bind Boeing.

30. **SEVERABILITY.** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect other provisions of this Agreement.

31. **NOTICES.** Any notices, reports, or information required hereunder shall be in writing and delivered or mailed by registered or certified mail, postage prepaid as follows:

If to Boeing, to: Senior Vice President
 Office of Internal Governance
 The Boeing Company
 7755 East Marginal Way South
 Mail Code 1F80
 Seattle, WA 98108

If to the Air Force, to: Deputy General Counsel
 (Contractor Responsibility)
 Department of the Air Force
 SAF/GCR
 4040 North Fairfax Drive, Suite 204
 Arlington, VA 22203

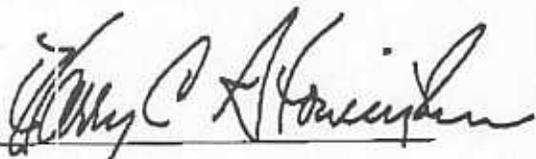
32. **MODIFICATION.** This Agreement may be amended or modified only by a written document signed by both parties.

DEPARTMENT OF THE AIR FORCE

BY: 
 STEVEN A. SHAW
 Deputy General Counsel
 (Contractor Responsibility)

DATE: 3/4/05

THE BOEING COMPANY

BY: 
 HARRY C. STONECIPHER
 Chief Executive Officer

DATE: 9/22/04