C-17 Program
Alternative Dispute Resolution
Memorandum of Agreement
Between
The Department of The Air Force
and
The Boeing Company

1. The Department of the Air Force (Air Force), C-17 System Program Office (SPO) and The Boeing Company, (collectively the Parties) have entered into contracts to include development, production, and sustainment of the C-17 program. The Parties hereto share the objective of supplying America's war fighters with technologically advanced and reliable equipment in a timely manner and at a reasonable price to promote swift, safe and successful accomplishment of the national defense mission. These contracts, and future contracts, contain the "Disputes" clause (52.233-1) to implement the Contract Disputes Act of 1978. However, as contemplated by FAR 32.214, the parties also recognize that Alternative Dispute Resolution (ADR) procedures involving collaborative techniques can be used as an alternative to Disputes Clause procedures in order to avoid the disruption and high cost of litigation which detracts from mission accomplishment.

2. The Parties agree that they will try to resolve all issues in controversy arising under or related to all C-17 contracts (both current and future) by negotiation and mutual agreement at the contracting officer's level. If negotiations reach an impasse, the parties agree to use to the maximum extent feasible one or more of the ADR processes contemplated by FAR 32.2 to reduce or eliminate the need for litigation. The Parties further agree that any ADR process must be structured to allow sufficient time to exchange and analyze any information necessary to obtain and justify a settlement.

3. Consistent with FAR 33.214, in cases where the parties decide to use ADR, the parties will prepare and agree to a specific, written ADR agreement appropriate to the controversy, before the ADR process begins. The agreement should normally address the following (as appropriate): authorized representatives for each party; ADR techniques and processes to be utilized and procedures to be followed; methods for the exchange of information; a schedule and procedures for any discovery proceedings, including how to limit discovery/factual exchange; appointment and payment of neutrals; whether and to what extent to stay or suspend any pending litigation; possible audit requirements; confidentiality, at what point the parties will begin negotiations; and a provision for termination of the agreement.

4. If the contracting officer rejects a contractor's request to use ADR proceedings, the contracting officer shall provide the contractor a written explanation citing one or more of the conditions in 5 U.S.C.572(b) or such other specific reasons that ADR procedures are inappropriate for the resolution of the dispute. See 41 U.S.C. 605(e) & FAR 33.214(b). In any case where a contractor rejects the government's request to use ADR proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.

5. It is not the intent of the parties that this agreement alter, supplement or deviate from the terms and conditions of any contract(s) between the parties, or the legal rights and obligations of the parties set forth therein. Any changes to those contract(s) must be executed in writing by authorized contracting officials.

6. In the event either party believes a particular issue is not well-suited to ADR, or is dissatisfied with progress being made in a particular ADR proceeding, that party may, after good faith efforts to resolve the issue, elect to abandon the ADR process and proceed as otherwise provided under contract, regulation or statute. Nothing in this Agreement shall be deemed to prevent either party from preserving and exercising its legal rights and remedies during the ADR process.

For the Air Force:

_____ _____

Col. Ted Bowlds
System Program Director
C-17 SPO

Date

_____ _____

Lt. Col. Patricia S. Boggs
Director of Contracts
C-17 SPO

Date

For the Boeing Company:

_____ _____

E. David Spong
Vice-President General Manager
Airlift & Tanker Programs

Date

_____ _____

Tim E. Degan
Director, Contracts, Pricing & Estimating
Aircraft & Missile Systems – Southern California

Date