



**LISI AEROSPACE  
Quality Assurance Directive**

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**North American T&C of purchase**

Version 7.0

North American terms and conditions of purchase

## 1. DEFINITIONS

These Terms and Conditions (the “Terms and Conditions”) are incorporated into and made a part of each purchase order. “Goods” and “Services” mean any kind of goods and/or services purchased by the purchaser of Goods and/or Services (referred to as “Buyer”) and supplied and/or performed by the supplier of such Goods and/or Services (referred to as “Seller”), together referred as the “Parties”. All material information applicable to the purchase of Goods and/or Services (such as, but not limited to: the identity of Seller and Buyer, the designation of the Goods and/or Services, the quantity of the Goods, the delivery information) shall be set forth in the Purchase Order (the “PO”) issued by Buyer. The complete and final “Contract” refers to all terms and conditions, including but not limited to: the PO including these Terms and Conditions, the annexes, or any supplemental terms and conditions referenced herein, applicable between Buyer and Seller.

## 2. SCOPE AND ACCEPTANCE

**2.1 Scope.** These Terms and Conditions shall exclusively govern the Contract. The Seller recognizes that he took notice of them and had the opportunity to negotiate them. The Contract will consist of the following documents in descending order of priority: the PO including these Terms and Conditions, and the acknowledgment of receipt of the PO. Any shipment of Goods and/or performance of Services by Seller shall be deemed to be solely governed by the Terms and Conditions contained or referenced herein, except to the extent that an authorized representative of Buyer may otherwise expressly consent in writing.

### 2.2 Acceptance.

**2.2.1 Acceptance of the PO.** Acceptance of the PO by Seller implies unreserved acceptance of these Terms and Conditions. Acceptance of the PO in its entirety shall be made by Seller in writing, within fourteen (14) calendar days of the PO’s receipt, unless otherwise stated in the PO. Seller’s failure to reply or acknowledge the PO within fourteen (14) calendar days period of receipt or performance of the PO shall constitute unreserved acceptance of the Contract. Nevertheless, Buyer is entitled to cancel at no cost any PO within three (3) calendar days following the date of sending of the PO without incurring any liability whatsoever.

**2.2.2 Acceptance of the Goods and/or Services.** Acceptance of Goods and/or Services purchased by Buyer shall occur following complete performance and successful testing, any time after the delivery date set forth in the PO, unless any claim is raised by Buyer.

## 3. DELIVERY

Delivery is of the essence in the Contract and shall be in strict compliance with the schedule and quantities contained in the PO. Goods contained in the PO shall be delivered to the location specified in the PO according to the applicable Incoterm (2010 Edition).

**3.1 Notification.** If Seller encounters or anticipates difficulty in meeting the delivery schedule specified on the PO, Seller shall immediately notify Buyer in writing, giving pertinent details, the reasons for the delay, the actions being taken to overcome or minimize the delay, and provide Buyer with a written recovery schedule, provided however that such data shall be for informational purposes only and shall not be construed as a waiver by Buyer of any delivery schedule, date, of any rights, or remedies provided by law and/or the Contract.

**3.2 Failure.** In case Seller fails to meet its scheduled delivery dates and Buyer calls for expedited shipments to avoid or minimize delay to the maximum extent possible, Seller will pay the associated additional costs. Unless otherwise agreed by Buyer, Seller shall compensate Buyer by way of damages in the event that there is delay in the delivery of Goods and/or performance of Services. The compensation payable shall be calculated by the number of calendar days (or part thereof) by which the delivery is late and by the amount of half one per cent (0,5%) of the value of the concerned Goods and/or Services per delayed calendar day, unless otherwise agreed between Buyer and Seller. Seller agrees that the compensation payable to Buyer is a genuine pre-estimate of the loss suffered by Buyer due to the late delivery of the Goods and/or late performance of Services.

**3.3 Overshipments.** Goods shall not be supplied in advance of Buyer’s schedule or in excess of quantities and shipping tolerances, if any, specified in the PO, and shall otherwise remain at Seller’s risk. Seller shall be liable for handling charges and return shipment costs for any excess quantities, and unless Seller agrees to pay for such costs, the overshipped quantity ownership will be transferred to Buyer at no additional cost. Buyer is under no obligation hereunder to notify Seller of any overshipments.

**3.4 Advanced shipment.** Seller shall not deliver Goods and/or perform Services prior to the scheduled delivery dates unless authorized in writing by Buyer. Buyer reserves the right, without loss of discount privileges, to pay invoices covering Goods shipped in advance of the schedule after the date specified for delivery and only after successful acceptance testing has been accomplished by Buyer.

**3.5 Title.** Except in case of a reservation of ownership clause expressly accepted and signed by the Buyer, ownership of the Goods and/or Services will be transferred upon acceptance of the PO by the Seller.

**3.6 Packaging.** All Goods to be delivered hereunder shall be packaged to insure safe arrival at their destination, to secure the best transportation means and to comply with the applicable local laws and with requirements of common carriers. Seller shall ensure that Goods are shipped with: the documents in compliance with all applicable standards and regulations at the date of delivery, the certificate of conformity in compliance with Buyer's instruction, the necessary documentation for the proper use, storage and maintenance thereof, shipping memos or packing list, and more generally any document required by Buyer. Those documents along with the appropriate duplicates must be placed in a sealed transparent envelope attached to the outside of the package or in one of the packages if there is more than one. Buyer's count or weight at delivery shall be final and conclusive on shipments.

**3.7 Traceability.** Seller shall maintain at all times (in written or recorded form) an effective system for the traceability of the Goods including, without limitation, technical means which enable to identify the relevant manufacturer and batch number of the said Goods and undertakes to provide Buyer with all such information.

#### **4. INSPECTION**

Buyer, its customers, any other higher tier contractor, or duly empowered public authorities, may access any document, audit, supervise or examine the work to be performed under the Contract. Seller shall assist and grant Buyer access to its premises as well as its sub-contractors' premises. At Buyer's request, Seller shall maintain a safe environment and appropriate inspection quality system. Any costs incurred by this supervision and any measures required shall be borne by Seller. Seller undertakes to provide all information, facilities and assistance necessary to Buyer during the inspection. Buyer shall be entitled to inspect Goods and/or Services referenced in the PO at all reasonable times and places, from acceptance of the PO to the shipment of the Goods. The right of inspection covers without limitation: materials, components, work in process, documents...

#### **5. PRICES**

Unless otherwise specified, prices are fixed and firm and are as per Incoterm (2010 edition) specified in the PO. Prices shall include all applicable taxes and customs duty. No charges will be allowed for packing, crating, drayage or storage. Any price reduction after placement of the PO but prior to payment shall apply to the PO.

Prices include the cost of maintenance and refurbishment of Tooling and Data as per Article 17, if any, and the cost of assignment of the intellectual property rights as per Article 18.3.

#### **6. PAYMENT**

The invoice for each delivery must be sent to the Buyer's address specified in the PO within five (5) calendar days of the delivery date. Seller shall be paid by bank transfer, according to the payment terms as stipulated in the PO, and upon submission of properly prepared invoice in accordance with Buyer's instructions for Goods and/or Services delivered to and accepted by Buyer. Any adjustments due to shortages, rejection or other failure to comply with the provisions of the Contract may be made by Buyer before payment.

Delays in receiving an invoice, errors or omissions on an invoice, or lack of supporting documentation required by the PO, will be cause for withholding payment without losing applicable discounts. Without prejudice to any other right or remedy, and to the extent permissible by law, the Buyer reserves the right to set off any amount owing at any time from the Seller to the Buyer against any amount payable by the Buyer to the Seller. If the Buyer makes an advance or a down payment and the PO includes a price revision clause, the price of the Goods and/or Services will be fixed for the part of the PO concerned by such advances and down payments. Any request for advance or down payment for more than ten thousand (10,000 €) requires a bank guarantee.

#### **7. SELLER'S QUALITY MANAGEMENT**

Seller shall have an effective quality system which meets the quality requirements applicable to the suppliers as stated in the Supplier Quality Manual released to the Supplier by the Purchaser. The Supplier Quality Manual shall be applied to establish the control of processes and products that have an affect on product or the product realization process, for airworthy products.

In addition, Seller shall verify the integrity and applicability of the procurement plan sent by Buyer prior to inputting the information of demand/purchase into their production management system, in particular through an industrial risk analysis methodology, inventory and production capacity policy and a monitoring policy of subcontractors with specific recovery plan.

## **8. SERVICE AND REPLACEMENT PARTS**

Seller will sell to Buyer Goods and/or Services necessary for Buyer to fulfill its current service and replacement Goods and/or Services requirements at the price(s) set forth in the Contract, adjusted only for differences in packaging and logistics costs, all as approved by Buyer. During the period after Buyer has completed its current purchases, Seller will sell Goods and/or Services to Buyer in order to fulfill Buyer's past service and replacement Goods requirements. Unless otherwise agreed to by Buyer, the price(s) during the first five (5) years of that period will be those in effect at the conclusion of current purchases. The price(s) for Goods and/or Services for the subsequent period will be as agreed upon by the Parties.

## **9. OBSOLESCENCE**

Obsolescence shall be the characteristic of Goods, any part of the Goods and/or Services, which has been taken out of production and cannot be purchased on the market, or the use of which has been announced as being or to be restricted, forbidden by an Aviation Authority notice or a Service Bulletin (hereinafter "Obsolescence"). In case of Obsolescence, Seller shall source, at no cost and without operational impact to Buyer, a suitable replacement, for the said obsolete Goods and/or Services. This replacement shall be made available without disrupting or discontinuing Buyer provisioning and be interchangeable in fit, form, function and if applicable aesthetics. Seller shall notify Buyer of the risk of obsolescence as soon as Seller has knowledge of such risk. Seller will do its best efforts to take back all obsolete stocks already paid by Buyer.

## **10. CHANGES**

**10.1 Changes in the PO.** Buyer may at any time by a written notice, and without notice to sureties or assignees, make changes to the PO and Seller agrees to accept such changes. If any such changes cause an increase or decrease in the cost of, or the time required for the performance of any part of the work under the PO, or affects any other provisions of the PO, an equitable adjustment shall be made in the price or delivery schedule, or both, and in such other provisions of the PO and the Contract as may be affected. The PO shall be modified in writing accordingly. Any claim for adjustment by Seller under this paragraph shall be asserted within twenty (20) calendar days from the date of receipt of the written notice directing the change provided, that Buyer acknowledges such claim prior to final payment of the PO. Failure to agree to any adjustment shall be a dispute as per Article 27 below. However, nothing in this paragraph shall excuse Seller from proceeding with the PO as changed. Any action taken by Seller which affects any provision of the PO, including delivery and price, whether or not accomplished with the concurrence of Buyer's employees, shall not entitle Seller to an equitable adjustment in accordance with this paragraph unless such action has been specifically directed by Buyer's written notice.

**10.2 Changes in Seller's process.** In addition, Seller shall inform diligently Buyer under written form of any Change, a Change being defined as a change in the operational sequence or in the process of Seller. Such change may include, but is not limited to: a new or a modified process flow, new or modified equipment, or any transfer of the production by Seller to another plant or another Seller. No Change shall be implemented by Seller without the prior written consent of Buyer. Depending on the impacts of the Change, Buyer may decide to launch a new qualification process and/or Buyer may undergo a new qualification process by its own customers. If, at any time during the Contract, Seller is able to propose a change to the technical specifications or to manufacturing process of the Goods, which reduces the cost of the Goods, the Parties shall mutually agree on the associated savings, which savings shall be reflected as a reduction in the price of the Goods and /or Services. After discussions between both Parties, Buyer will inform Seller about all costs associated with or resulting from a Change which may be borne by Seller.

## **11. STOP WORK ORDER**

Buyer may at any time, by written notice, require Seller to stop all or any part of the work to be performed under any PO for a period up to ninety (90) calendar days after the notice is delivered to Seller ("Stop Work Order"). Upon receipt of the Stop Work Order, Seller shall immediately comply with its terms and take reasonable steps to minimize the costs allocable to the work covered by the PO during the period of work stoppage. Within the work stoppage period, or within any extension of that period of which the Parties have agreed, Buyer shall either cancel the Stop Work Order, or terminate the work covered by the PO as provided in the "Termination for Default" or the "Termination for Convenience" paragraphs of these Terms and Conditions, whichever may be appropriate.

Seller shall resume work upon cancellation or expiration of any Stop Work Order. Buyer and Seller shall negotiate an equitable adjustment in the price or schedule or both if: (i) this Contract is not canceled or terminated; (ii) Seller brings material evidence to Buyer that the suspension results in a change in Seller's cost of performance or ability to meet the PO delivery schedule; and (iii) Seller submits a claim for adjustment within twenty (20) calendar days after the suspension is canceled.

## 12. WARRANTIES

**12.1** Seller warrants that all Goods and/or Services furnished pursuant to the PO: (a) will conform to all applicable specifications, instructions, drawings, data, samples or other descriptions furnished or adopted by Buyer, (b) will be merchantable, of good material and workmanship, and free from defect, (c) will be as described and advertised and fit for the intended purposes, (d) will be free from all liens and encumbrances, and (e) will conform with all laws, legal requirements and regulations as stated in these Terms and Conditions. These warranties are in addition to all other warranties expressed, implied or statutory, including the warranty for hidden defects, when applicable. Seller shall indemnify, defend, and hold harmless Buyer from any breach of these warranties and this shall be without prejudice to any other rights or remedies of Buyer under the Contract or at law. Limitations on Buyer's remedies or disclaimers of warranties in documents of Seller shall not be effective and are rejected. All warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the Goods and/or Services and shall run to Buyer, its successors, assigns, customers at any tier, and ultimate user and joint users.

**12.2 Goods with a limited storage life.** In the event of Goods with a limited storage life or material being supplied, the Seller must specify: (a) the measures required to ensure storage in good condition, (b) the total period of validity of the Goods, before use, counting from the date of manufacture; and (c) the use expiry date, affixed appropriately and indestructibly to the part of the packaging directly containing, bearing or protecting the Goods. Seller shall ensure that in relation to the expiry date of the Goods, Buyer will benefit from at least eighty percent (80%) of the total life expectancy.

## 13. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS

Goods and/or Services shall comply with all laws and regulations applicable to the Goods and/or Services covered by the PO, including but not limited to: (i) all applicable national and international regulations, laws and rules relating to anti-bribery and corporate duty of vigilance, and (ii) all applicable export, re-export and import laws, regulations, decrees, orders and policies of the United States Government and the Government of any country in which the Parties conduct business pursuant to the Contract. Seller's employees, representatives and/or agents will comply with all applicable laws and regulations including the Purchaser's Anti-Bribery Code of Conduct and with the support of a whistleblowing open line [www.lisi-group.com](http://www.lisi-group.com). Seller acknowledges and accepts full and sole responsibility to maintain an environment, health and safety management system appropriate for its business throughout the performance of this Contract. Seller shall respect the ISO 14001 principles and/or OHSAS 18001 and will do its best efforts to be certified. Seller shall also respect the AS 6174 principles. Seller shall convey the requirement of these clauses to its suppliers. Upon Buyer's request, Seller will furnish certificates of compliance and agrees to provide Buyer all explanatory and factual information Buyer needs to verify such compliance. The Seller will inform diligently the Buyer about (i) any supplied Goods that may fall and/or fall within the REACH regulations and, (ii) if any, the corresponding registration number, constraints and recommendations for the safe use of the Goods. Seller shall, no later than thirty (30) calendar days following each calendar year in which Seller has delivered any Goods to Buyer under this Contract or otherwise, complete and provide to Buyer a single and comprehensive written statement detailing compliance with the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to Conflict Minerals. Seller shall perform appropriate due diligence on its supply chain in order to fulfill the reporting these obligations. Last but not least, the Seller hereby represents having read and understood and will fully comply, within the framework of the AEO Statute, with the Security Declaration that may be found under <http://www.lisi-aerospace.com/aboutus/Pages/Security-Declaration.aspx>

## 14. NON COMPLIANCE OF GOODS AND/OR SERVICES

**14.1 Non compliance of the Goods and/or Services.** Any Good and/or Service which does not comply with the PO specifications will be rejected by the Buyer. Seller shall organize, at its own expense, the return of the defective Goods within fourteen (14) calendar days of the notice of rejection, otherwise Buyer will organize the return of the Goods and/or Services at Seller's risk and expense. Goods and/or Services rejected by Buyer will be considered as undelivered and will be deducted from the current invoices. Failure to discover defects in Goods and/or Services or payment of Goods and/or Services shall not constitute acceptance thereof or limit any of Buyer's rights, including without limitation, those under the warranty provisions of the Contract.

### 14.2 Concession requests

On a very exceptional basis, the Buyer agrees to examine requests made by the Seller during the manufacture of a Product and/or performance of a Service for special concessions with respect to the technical specifications and/or the definition. Such requests must reach the Buyer upon the non-conformity being discovered, accompanied by all supporting documents necessary to assess the concession request. If concession is granted, any obligations on the Buyer as a result thereof, such as replacement of the Product and/or modification of the Service, and expenses arising there from, will be borne in full by the Seller. The Buyer reserves the right to demand a price reduction and/or to charge the Seller a fixed fee of seven hundred Euros (700€) and any other additional costs, charges or amounts incurred by the Buyer for assessing the concession request. The granting of concession will not discharge the Seller from its obligations or responsibilities, notably with respect to meeting delivery deadlines.



**14.3 Replacement of rejected Goods and rework of Services.** At Buyer's request, Seller shall: (i) repair or replace defective Goods as soon as possible at its own expense, and/or (ii) rework defective Services as soon as possible at its own expense, without prejudice to Buyer's rights to indemnification by Seller for all suffered damages. Seller must issue a new invoice for the replaced Goods and/or reworked Services. Warranty on the replaced or repaired Goods will begin upon their acceptance. Late delivery payment will commence from the acceptance of the replaced or repaired Goods and/or the reworked Services.

**14.4 Corrective action.** Seller must take appropriate corrective actions as quickly as possible in the event of serious and/or repeated noncompliance. At the same time, Seller must take all measures to honor the PO with Goods and/or Services that comply with the PO specifications. All costs for checking or supervision performed by Buyer and/or a third party empowered by Buyer will be borne by Seller.

**14.5 Information and communications in the event of non-compliance.** If Seller anticipates any non-compliance potentially affecting delivered Goods and/or performed Services, Seller must immediately inform Buyer, indentifying the delivered Goods batches and/or performed Services likely to be affected, specifying the nature of the non-compliance, the consequences thereof, and a list of other customers also informed.

## **15. LIABILITY**

**15.1 Total Indemnification.** The Seller shall indemnify the Buyer on demand in full against all losses, damages (including, but not limited to, loss or damage to property), liability, claims, costs, fines, penalties and expenses (including reasonable legal and professional advisors fees and expenses whether or not proceedings are brought) awarded against or incurred or paid by the Buyer as a result of or in connection with: (a) the Contract, including any breach of warranty, given by the Seller in relation to the Goods and/or Services whether actual or alleged with reasonable cause and whether or not proceedings are brought; (b) any liability under any safety, health, environment and/or consumer legislation (in the UK, France and other parts of Continental Europe) which relates to the subject matter of the PO; (c) any act or omission of the Seller or its employees, agents or sub-contractors in the supply or delivery of the Goods and/or Services; and (d) any claim reasonably made by any customers of the Buyer in respect of the Goods and/or Services supplied by the Seller (except to the extent that such liability results from compliance by the Seller with any agreed specification from the Buyer or from negligence on the part of the Buyer or its employees). Seller shall defend, indemnify, and hold harmless Buyer, its officers, employees, agents, representatives, customers, and users of Seller's Goods and Services from and against all demands, claims, damages, loss, or liabilities of every kind and nature (including attorney fees and recall costs) based upon any allegations of, or resulting from the performance or breach to comply with the PO. All obligations of Seller to indemnify, hold harmless, protect and defend are in addition to all other rights or remedies of Buyer and survive acceptance and use of the Goods or Services, payment and completion, termination, or cancellation of the Contract.

**15.2 Limitation on Buyer's Liability.** Under no circumstances will Buyer be liable for consequential, incidental, or special damages of any kind or for any damages in excess of the price allocable to the portion of the Good and/or Services on which the claim is based. An action on any claim asserted by Seller against Buyer must be commenced within one year after the occurrence of the act on which the claim is based.

## **16. INSURANCE**

Seller shall obtain and maintain during the term of the Contract all insurance policies required under applicable law in respect of the manufacture and/or supply of the Goods and/or performance of the Services including, but not limited to, insurance policies covering personal injury, product liability, physical and consequential damages, whether direct or indirect, in relation to the performance of the PO and in respect of all liabilities, claims, costs and expenses incurred by Buyer due to an act or omission of Seller, its employees, agents and sub-contractors. Such insurance cover must be at least ten million Euros (10,000,000€) (or equivalent local currency) and Buyer is entitled to request from Seller any additional sum insured and/or specific insurance coverage. The insurance must be taken out by Seller with a reputable international insurance company and Seller must provide the related insurance certificates at any time promptly at the request by Buyer.



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**17. TOOLING AND DATA:**

In case Buyer provides to Seller tooling and/or data (such as but not limited to processes, known-how, special dies and patterns), materials or supplies (hereafter the "Tooling and Data") for the performance of the PO, such Tooling and Data will be stored by Seller under its supervision. These Tooling and Data must be solely used for the performance of the PO. Seller takes all risk and liability of such Tooling and Data, and shall subscribe any relevant insurance for loss or damage thereto, except for normal wear and tear, and shall furnish proof of such insurance on Buyer's request. Seller shall supply to Buyer detailed statements of inventory of such Tooling and Data upon request of Buyer. Seller shall maintain and refurbish of all Tooling and Data at its own costs. These Tooling and Data shall remain Buyer's property and must be identified as such by Seller with permanent markings or small plaques. Any Tooling and/or Data which is at Seller's disposal for the purpose of performance of the PO shall remain subject to the foregoing restrictions on use, reproduction and disclosure. Buyer may, at any time, reimburse Seller for the cost of part or all special tooling paid for by Seller, and upon payment Buyer shall become the owner thereof, and shall be entitled to possession at the completion of the PO, or at such earlier date as the Parties may agree. Tooling and Data shall be subject to removal at any time without additional cost upon Buyer's request. Upon termination of the Contract and upon written request of Buyer, Seller shall either return Tooling and Data received under the Contract to the Buyer or certify that all Tooling and Data and all copies thereof have been destroyed.

**18. INTELLECTUAL PROPERTY RIGHTS**

**18.1 Warranty and indemnification.** Seller warrants, represents, and undertakes that the Goods and/or Services delivered under the Contract do not infringe any other party's patents, trademarks, trade names, registered designs, design rights, copyrights or any other industrial or intellectual property rights. Seller shall be liable and agrees to defend, indemnify and hold harmless Buyer, its customers and agents against any liability, including without limitation costs, expenses, and attorneys' fees, for or by reason of any actual or alleged infringement of any intellectual property right arising out of the manufacture, use, sale, resale, delivery or disposal of Goods and/or Services furnished under the PO, to the extent that any such claim is not attributable to Seller's compliance with Buyer's specific written instructions.

**18.2 Notifications.** In the event of any such claim against Buyer, Seller shall furnish to Buyer, when notified by Buyer, all evidence and information in possession of Seller pertaining to such claim. Seller shall report to Buyer promptly and in written details, each notice or claim of patent or copyright infringement relating to the performance of the PO of which Seller has knowledge.

**18.3 License/Assignment.** Seller shall disclose and hereby exclusively assigns to Buyer all inventions and data created during the performance of the PO as well as the intellectual property rights pertaining thereto, including but not limited to reproduction rights, performance rights, adaptation rights, commercialization rights and use rights for any purpose and for the entire period of statutory protection specified in the applicable legislation. Upon termination of the PO, either for Seller's default, insolvency or for convenience, Buyer may, at Buyer's option, use on a nonexclusive basis, all drawings, documents or other records related to the PO whether created by Buyer or Seller without further compensation to Seller.

**19. RIGHTS AND RESERVATIONS:** All drawings, specifications, designs, information, tools, patterns, equipment, processes, known-how, materials, special dies and other goods supplied, developed or paid for by Buyer, and proprietary rights embodied therein, shall remain the exclusive property of Buyer and shall be kept separate from other drawings, specifications and materials, and identified as the property of Buyer. The same shall not be used or reproduced for any purpose whatsoever except the performance of work under the PO.

**20. CONFIDENTIALITY**

The information disclosed under any form by Buyer to Seller relative to the PO, to the extent that such information is not in the public domain and evidenced by written documents, shall not be disclosed to any third parties unless Buyer's prior written consent and are considered as confidential, except to employees and/or subcontractors as necessary for completion of the PO, in which event these shall have the same obligation of nondisclosure under Seller's responsibility. Such information shall be used only in filing the PO. Confidential restrictions shall survive completion, cancellation and termination of the PO.

**21. ARCHIVES**

Seller undertakes to archive copies of its all work product, included but not limited to technical documents relating to its manufacturing process, and all elements used for the entire and proper performance of the PO for a period of ten (10) years for non-flying Goods and thirty (30) years for flying Goods after the expiry or termination thereof.

## **22. TERMINATION FOR DEFAULT**

(a) Buyer may, by written notice of default to Seller and subject to the provisions of subparagraphs (c) and (e) below, terminate the whole or any part of the PO and/or of the Contract in any of the following circumstances:

(i) If Seller fails to perform the PO and/or the Contract within the time specified or any extension thereof. Seller shall be responsible within such extension for any and all additional charges resulting from deviation from Buyer's instructions;

(ii) If Seller fails to perform any of the other provisions of the PO and/or of the Contract, or fails to make progress as to endanger performance of the PO and/or the Contract in accordance with its terms, or Buyer anticipates such failure, and Seller does not remedy such failure within a period of thirty (30) calendar days (or such longer period as Buyer may authorize in writing) after receipt of notice of failure from Buyer.

(b) In the event Buyer terminates the PO and/or the Contract in whole or in part as provided in subparagraph (a) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, Goods and/or Services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for the same, and reimburse Buyer for all monies already paid for the performance of the PO and/or the Contract, provided that Seller continues the performance of the PO and/or the Contract to the extent not terminated hereunder.

(c) Except with respect to defaults of subcontractors at any tier, Seller shall not be liable for any excess costs if the failure to perform the PO and/or the Contract arises out of causes beyond the control and without the fault or negligence of Seller, unforeseeable and that cannot be avoided, referred to as "Force Majeure" event. If a Force Majeure event arises, Seller shall promptly notify Buyer and shall use its commercially reasonable endeavors to overcome such event. Buyer shall be entitled to terminate the Contract, either in whole or in part, if such Force Majeure event lasts more than sixty (60) calendar days from notification to Buyer.

(d) If the PO and/or the Contract is terminated as provided in subparagraph (a) above, Buyer may, in addition to any other rights provided in these Terms and Conditions or available under applicable law, require Seller to transfer title and deliver to Buyer or its designee, in the manner and to the extent directed by Buyer :

(i) Any completed Goods, and

(ii) Such partially completed Goods and materials, and contract rights. The price for completed Goods and/or Services delivered to and accepted by Buyer shall that set forth in the PO. The price for manufacturing materials delivered to and accepted by Buyer shall be agreed upon by Buyer and Seller.

(e) The rights and remedies of Buyer provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under these Terms and Conditions.

(f) It is understood and agreed that Seller shall reimburse Buyer for all costs and expenses incurred by Buyer due to Seller's default.

## **23. TERMINATION FOR CONVENIENCE**

Buyer may at any time by written notice terminate all or any part of the PO and/or the Contract at its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to stop work related to the performance of the PO. Subject to the terms of this Contract, within ninety (90) calendar days after the effective date of termination, Seller may submit to Buyer a claim reflecting the percentage of the work performed prior to the effective date of termination, plus reasonable charges that Seller can demonstrate have resulted from the termination, to the satisfaction of Buyer. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided. Further, Seller shall not be paid, and in no event shall Buyer be obligated to pay, lost or anticipated profits or unabsorbed indirect costs or overhead. In no event shall Buyer be obligated to pay Seller any amount in excess of the PO price. The provisions of this paragraph shall not limit or affect the right of Buyer to terminate the Contract for default. In any case, Seller shall continue all work not terminated.

## **24. TERMINATION FOR INSOLVENCY**

Seller undertakes to inform diligently Buyer of any change occurring in its share capital, a change of control of Seller's board or shareholdings ("Control"), merger and amalgamation, and in the event of an institution of any proceedings by or against Seller in bankruptcy or insolvency, referred to as "Insolvency Event" (including, but not limited to, official administration, liquidation or an arrangement with its creditors), or the appointment of a receiver or trustee or an assignment for the benefit of creditors of Seller.

To the fullest extent permissible by law, Buyer may terminate the PO and/or Contract forthwith if: (a) Seller undergoes a change of Control; (b) Seller suffers an Insolvency Event; (c) Seller ceases or threatens to carry on its business; or (d) the financial position of Seller deteriorates to the extent that at Buyer's discretion the ability of Seller to properly fulfill its obligations under the Contract has been placed in jeopardy. Any termination under this paragraph shall be deemed to be a termination for default in accordance with Article 22 hereabove.





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**25. ASSIGNMENT AND SUBCONTRACTING**

Seller shall not assign the Contract or the PO or any obligations under the Contract, nor shall Seller subcontract for completed or substantially completed Goods and/or Services purchased under the PO without the prior written consent of Buyer. Any such consent to sub-contract shall not relieve Seller of any obligation to comply with the Contract or any PO. This limitation shall not apply to the purchase by Seller of standard commercial supplies or raw materials. Seller shall select subcontractors (including supplies) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the PO.

**26. NO WAIVER**

No waiver, delays, or forbearance by Buyer of any breach of the Contract or a PO, or the granting of an extension for performance thereunder shall be construed as a waiver or relinquishment of any such provisions, rights or remedies. Seller agrees that Buyer's approval of Seller's technical and quality specifications, drawings, plans, procedures, reports, and other submissions shall not relieve Seller from its obligations to perform all requirements of the Contract.

**27. APPLICABLE LAW AND DISPUTE RESOLUTION:**

**27.1 Applicable law.** The validity and performance of the Contract and any related PO shall be governed by and construed in accordance with the laws of the jurisdiction in which Buyer's facility issuing the PO is located.

**27.2 Dispute.** The Parties agree that in the event of any dispute arising from the Contract and any PO, they will endeavor to reach an amicable settlement. Failing to reach such dispute resolution, jurisdiction and venue of any suit between the Parties hereto arising out of or connected with this Contract, the PO or the Goods and/or Services furnished hereunder, shall lie only in the competent courts in which such Buyer's facility is located.

**27.3 Pending resolution of any dispute under the Contract.** Seller shall proceed diligently with the performance of work, including the delivery of Goods and/or Services in accordance with Buyer's direction. Upon resolution of the dispute, the PO shall be equitably adjusted, if necessary, to reflect such resolution.

**Additional North American provisions**

**A.PRICES**

Seller warrants that price charged for the Goods and/or Services are not higher than those charged to any other customer, including the Government, for Goods and/or Services of like grade quality in similar or lesser quantities.

**B.PAYMENT**

Discount periods shall commence ten (10) calendar days after the latest of scheduled delivery, or receipt of invoice. No charges will be honored unless specified on the face of the PO. Invoices must be accompanied by transportation receipt, if transportation is payable as a separate item.

**C.COMPLIANCE WITH APPLICABLE LAWS AND REGULATION**

**Labor laws.** A US-based Seller shall certify that the Goods and/or Services covered by its invoices are produced and/or rendered in accordance with the Fair Labor Standards Act of 1938, as amended. Unless exempted, Seller certifies that they shall be produced in compliance with all applicable non-discrimination laws, regulations, and orders, including those relating to the provisions of Executive Order 11246, as amended by Executive Order 11375 (Equal Employment Opportunity), 38 USC Chapter 42, 4212 (Vietnam Era Veterans Readjustment Assistance Act) Section 503 of the Rehabilitation Act of 1973 (Handicapped Regulations). Seller warrants that the Goods and/or Services delivered to Buyer comply with all applicable provisions of the Occupational Safety and Health Act and applicable regulations under the act. Seller further warrants compliance, where applicable, and without limitation, with all orders, standards, and regulations of the National Highway & Transportation Safety Administration, Federal Aviation Administration, Environmental Protection Administration, Food and Drug Administration, Consumer Product Commission, and Occupations Safety and Health Act administration.

Each invoice shall contain the following certification: "We hereby certify that these goods were produced in compliance with all applicable requirements of section 6.7 and 12 of the Fair Labor Standards Act of 1938, as amended, and all regulations and orders of the Administrator of the Wage and Hour Division issued under 14 thereof."



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**Equal Employment Opportunity.** A US-based Seller shall abide by the requirements of 41 CFR 60-1.1 & 2, 41 CFR §§ 60-300.5(a), 41 CFR 60-350, and 60-741.5(a). Seller's purchase orders shall contain the following provision: "Seller shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities."

**Ozone Depletion Chemicals**

When Goods are manufactured with ozone depleting chemical as defined under the U.S. regulation titled Clean Air Act of 1990, section 611, 40 C.F.R., part 82, Sellers within the U.S. must comply with all its requirements, including but not limited to, placing the following warning statement on the bill of lading, shipment papers or any other proper documentation:

"The product(s) to be delivered under this contract may contain or be manufactured using class I and/or class II ozone depleting substances and the following warning statement shall apply to such product(s): WARNING: MANUFACTURED WITH OR CONTAINS [chemical identification] SUBSTANCES WHICH HARM PUBLIC HEALTH AND ENVIRONMENT BY DESTROYING OZONE IN THE UPPER STRATOSPHERE."

Non-U.S. Sellers shall include with each bill of lading the following statement:

"You are hereby advised that products to be delivered under this purchase document may be manufactured with or contain an ozone depleting substance and the following warning statement shall apply to such product(s): WARNING: MANUFACTURED WITH OR CONTAINS [chemical identification] SUBSTANCES WHICH HARM PUBLIC HEALTH AND ENVIRONMENT BY DESTROYING OZONE IN THE UPPER STRATOSPHERE."

Seller must flow down compliance with these provisions with all sub-contractors.

**Safety and Health laws.** Seller certifies that it is in compliance with any federal, state or provincial laws, including but not limited to the US Occupational Safety and Health Act of 1970 (OSHA) or the Canadian Hazardous Products Act, as applicable. Furthermore, if the Goods purchased herein are considered toxic or hazardous as defined therein, Seller shall provide a copy of the Safety Data Sheet (SDS) with each shipment or as otherwise specified on the Order.

**D. RIGHTS AND RESERVATIONS**

Nothing in this article shall limit Seller's ability to use Goods in the manufacturing of end items for direct sale to the United States Government to the extent the Government has the right under its prime contracts with Buyer to authorize such use by Seller. In such event, Seller shall provide a written notification to Buyer and properly identifies each end items manufactured for the direct sale to the United States Government.

**E. TERMINATION FOR CONVENIENCE**

If a Government contract number is cited on the face of the Order, a termination for Buyer's convenience shall be accomplished in accordance with DAR 8-706, as in effect on the date of the Order, which shall be controlling over any conflicting provisions hereof.

**F. ASSIGNMENT**

If the PO is issued under a United States Government prime contract or subcontract, the following paragraphs apply: (a) Patents. The clauses of Section VII and the provisions of Section IX, Part 1, of DAR which are incorporated in the prime contract under which this P.O. is issued, are hereby incorporated herein by reference and Seller agrees to comply with said clauses and provisions as "Contractor". However, no Patent Rights clause is incorporated in this P.O. unless it involves research and development effort. (b) Data. The clauses of Section VII and the provisions of Section IX, Part 2, of DAR, which are incorporated in the prime contract under which this P.O. is issued, and hereby incorporated herein by reference and Seller agrees to comply with said clauses and provisions as "Contractor". (c) The above referenced clauses and provisions will be identified or copies will be furnished upon request.

**G. GOVERNMENT CONTRACTS**

If a PO is issued under a Government prime contract or subcontract, the clauses listed in attachments to the PO are incorporated herein by reference and the terms and conditions thereof shall be controlling over any conflicting terms and conditions set forth herein. The term "Contractor" shall mean Seller, the term "Contract" shall mean this Contract, and the terms "Government", "Contracting Officer", and equivalent phrases shall mean Buyer, as applicable, to fulfill the intent of such clauses.