



**SCHWEIZER AIRCRAFT CORP.**

**STANDARD TERMS AND CONDITIONS OF PURCHASE  
("SA 908")**

**Rev. 11/19/2010**

**Section Headings**

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CONDITIONS OF PURCHASE  
CLAUSES 1-46**

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**SECTION IA – UTC STANDARD TERMS AND CONDITIONS OF PURCHASE**

**1. Acceptance**

- 1.1. Supplier's (i) full or partial performance under, or indication thereof, or (ii) acknowledgement of the Order, is acceptance of the Order and all terms and conditions contained in the Order, including these Terms and Conditions. Any terms and conditions proposed in Supplier's acceptance or in any acknowledgment, invoice, or other form of Supplier that add to, vary from, or conflict with the terms herein are hereby rejected. If the Order is an acceptance of a prior offer by Supplier, such acceptance is limited to the express terms set forth in the Order.

**2. Definitions**

- 2.1. "Affiliate" means, with respect to any entity, any other entity that directly or indirectly controls, is controlled by or under common control with such entity.
- 2.2. "Agreement" means the master terms agreement, long term agreement, subcontract, or other agreement that references these terms and conditions, and pursuant to which Orders are issued to Supplier.
- 2.3. "Buyer", "Schweizer", or "SAC" means Schweizer Aircraft Corp. that issues an Order referencing these terms and conditions, and any successor or assignee of Buyer.
- 2.4. "Buyer's Customer" means the ultimate owner, lessee, or operator of the Goods and includes the purchaser of an end product incorporating the Goods and/or Services provided by the Supplier under the Order.
- 2.5. "Delivery Date" means the date of delivery for Goods and Services as specified in an Order and/or by the Delivery System.
- 2.6. "Delivery System" means Buyer's computer-based, web-enabled delivery scheduling system.
- 2.7. "FAA" means the United States Federal Aviation Administration.
- 2.8. "Goods" means goods, supplies, software, drawings, data, reports, manuals, other specified documentation, or items that are required to be delivered pursuant to, or in connection with, an Order. Where the context permits, the use of the term Goods shall include Services.
- 2.9. "Intellectual Property" means all inventions, patents, software, copyrights, mask works, industrial property rights, trademarks, trade secrets, know-how, proprietary information and rights and information of a similar nature. Such information includes, without limitation, designs, processes, drawings, prints, specifications, reports, data, technical information, and instructions.
- 2.10. "Lead Time" means the mutually agreed upon time required for Supplier to produce the Goods.
- 2.11. "Need Date" means the date Buyer needs delivery of Goods which date is before, or after, the Delivery Date.
- 2.12. "Party" or "Parties" shall mean Buyer and/or Supplier, individually or collectively, as the context requires.

- 2.13. "Prime Contract" means the government or commercial sales contract between Buyer and Buyer Customer.
- 2.14. "Order" means a paper or electronic document sent by Buyer to Supplier, or where provided for in an Agreement, an entry on a Buyer web site, to initiate the ordering of Goods or Services, such as a purchase order, a scheduling agreement, or other authorization or Order, and including change notices, supplements or modifications thereto. The phrase "in connection with the Order" includes performance of the Order, performance in anticipation of the Order, and preparation of a bid or proposal for the Order. Where the context permits, the term Order includes Agreement.
- 2.15. "Services" means any effort performed by Supplier necessary or incidental to the delivery of Goods, including design, engineering, installation, repair and maintenance. The term "Services" shall also include any effort required by an Order.
- 2.16. "Specifications" means all requirements with which Goods and Services and performance hereunder must comply, including, without limitation, drawings, instructions and standards, on a Buyer web site or elsewhere, as such requirements are specified and/or referenced in Orders, as such requirements are modified from time to time by Buyer.
- 2.17. "Supplier" means the legal entity identified in the Order, providing Goods and/or Services, or otherwise performing work pursuant to an Order.
- 2.18. "Terms and Conditions" means this document, the United Technologies Corp. Standard Terms and Conditions of Purchase, regardless of whether modified or unmodified by the Parties.

### **3. Specifications**

- 3.1. Supplier shall comply with all Specifications.

### **4. Delivery**

- 4.1. Supplier shall use the invoicing systems specified by Buyer.
- 4.2. Time is of the essence in Supplier's performance of an Order, and Supplier shall deliver Goods and perform Services by the Delivery Date.
- 4.3. Shipment shall be to the location directed by Buyer. Invoicing, delivery terms, shipping, packing and waste reduction instructions shall be provided to Supplier through an attachment to, or printing on the face of, the Order, or incorporated into the Order by reference to a web site. In the absence of such instructions, the delivery terms for Goods shall be FCA Supplier's facility (Incoterms 2000). Title and risk of loss shall pass to Buyer upon receipt of Goods at Buyer's facility or third party drop shipment point.
- 4.4. If Supplier is unable to deliver Goods by the Delivery Date, Buyer may, without liability: (i) reduce or cancel its requirements for any part of the quantity of the Goods that cannot be delivered by the Delivery Date or (ii) reallocate to another Order, or reschedule, any portion of the Goods that cannot be delivered by the Delivery Date.
- 4.5. Without affecting any other rights of Buyer, Buyer may cancel Orders, in whole or in part, without liability to Supplier, at any time prior to commencement of Lead Time.

## **5. Inspection, Acceptance and Rejection**

- 5.1. Supplier shall only tender Goods to Buyer that have passed inspection in accordance with the applicable inspection system and that otherwise conform to all requirements of an Order.
- 5.2. Buyer may provide written notice of acceptance of the Goods to Supplier. However, in the absence of Buyer's written acceptance and notwithstanding (i) prior inspection of, (ii) payment for, (iii) use of or (iv) delivery of the Goods, acceptance shall not be deemed to occur until twelve (12) months following Buyer's receipt of Goods ("Inspection Period"). Transfer of title to Buyer shall not constitute acceptance.
- 5.3. During the Inspection Period, Buyer may, with respect to any Goods that do not conform in any respect to the Order: (i) reject all or a portion of such nonconforming Goods; (ii) accept all or a portion of such nonconforming Goods with a price reduction for the cost of repair or the diminution of value; or (iii) accept any conforming Goods and reject the rest.
- 5.4. Within thirty (30) days of Supplier's receipt of Buyer's notification of a nonconformity, Supplier shall investigate the nonconformity, deliver to Buyer a written report of its investigation and conclusions, and formulate a corrective action plan acceptable to Buyer.
- 5.5. With respect to rejected nonconforming Goods, Buyer may at its election and at Supplier's risk and expense (i) hold nonconforming Goods for Supplier, or (ii) return (Ex Works, Incoterms 2000, facility where Goods are rejected) nonconforming Goods to Supplier for, at Buyer's option, either (a) full credit or refund or (b) replacement Goods to be received within 24 hours of nonconformity notification. Title to such rejected Goods returned to Supplier shall transfer to Supplier upon such delivery and such Goods shall not be replaced by Supplier except upon written instructions from Buyer. Goods returned to Buyer hereunder shall be shipped at Supplier's expense and risk of loss. Additionally, rejected nonconforming Goods shall not be tendered again to Buyer for acceptance unless permitted by Buyer and applicable law, and accompanied by a disclosure of Buyer's prior rejection(s).
- 5.6. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from nonconforming Goods, including but not limited to labor and other costs related to transportation of Goods, expediting, removal, disassembly, failure analysis, fault isolation, assembly, reinstallation, reinspection, retrofit, and any and all other such corrective action costs incurred by Buyer.

## **6. Warranty**

- 6.1. Supplier warrants to Buyer that all Goods provided under the Order shall be and continue to be: (i) merchantable and fit for the purpose intended; (ii) new; (iii) free from defects in material and workmanship; (iv) free from defects in design if the design is not provided by Buyer; (v) manufactured in strict accordance with the Specifications; and (vi) free from liens or encumbrances on title (collectively, for this Section "Warranty").
- 6.2. For a period of thirty-six (36) months after Buyer's receipt of the Goods ("Term"), Buyer may require Supplier to promptly repair or replace, at Buyer's option, any Goods which breach the Warranty. Buyer may return ship the Goods on the fastest available commercial carrier at Supplier's expense and risk of loss. Goods returned to Buyer

hereunder shall be shipped at Supplier's expense and risk of loss and shall be accompanied by notice stating whether they are new replacements or repaired originals, and shall continue to be covered under this warranty. Supplier shall conduct intake, review, analysis and any other activity required to evaluate whether the returned Goods are covered by the Warranty at no expense to Buyer. The Term shall reset upon delivery of new replacements to Buyer. Repaired original Goods shall be covered under this Warranty for the greater of six (6) months or for the balance of the original Term. The balance of the original Term shall be determined by the time remaining on the Term as of Buyer's discovery or receipt of notification of the defect.

- 6.3. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from Goods not conforming to the Warranty, including but not limited to labor and other costs related to transportation of Goods, expediting, removal, disassembly, failure analysis, fault isolation, assembly, reinstallation, reinspection, retrofit, and any and all other such corrective action costs incurred by Buyer.

## **7. Indemnification**

- 7.1. Supplier shall indemnify and save harmless Buyer, Buyer's insurers and Buyer's affiliates and their employees, agents, officers and directors for and from all suits, claims, judgments, awards, losses, damages, costs or expenses (including attorneys' fees) relating to, arising out of, or caused by the performance hereunder, any act or omission of Supplier or any Goods or Services. Supplier's indemnification obligation hereunder covers, without limitation, injuries, sickness, diseases (including occupational disease whenever occurring), or death of Supplier employees.

## **8. Taxes**

- 8.1. Tax Liability: Supplier shall properly impose upon, collect and remit from Buyer any and all sales, use, excise, transaction and value added taxes, customs, duties, contributions, or similar levies by taxing jurisdictions as required by law ("Taxes") that are imposed by any government Tax authority ("Tax Authority") upon Buyer's payments pursuant to the Order, and are the legal obligation of the Buyer. Each of the Taxes shall be separately stated on all applicable Supplier invoices.
- 8.2. Tax Exceptions: No Taxes, interest, penalties, or other additions to Taxes, shall be collected by Supplier if, pursuant to the Order or the laws of the applicable Tax Authority, (i) the transaction is not subject to Taxes; (ii) Buyer has been authorized to pay Taxes directly to the appropriate Tax Authority; or (iii) Supplier is obligated to pay the Taxes. Supplier shall also pay any Taxes arising out of its willful misconduct or negligence for which Buyer becomes liable.
- 8.3. Tax Assessment Notification: Supplier shall, upon receipt from any Tax Authority of any levy, notice, assessment, or withholding of any Taxes for which Buyer may be obligated, notify Buyer in writing directed to: Manager, Tax Compliance, United Technologies Corp., Ten Farm Springs Road M/S 10FS-1, Farmington, CT 06032.
- 8.4. Tax Disputes: Supplier shall cooperate in the equitable resolution of disputes pertaining to any Taxes arising from the Order. If Buyer may directly contest any Taxes in its own name, then it may do so and, to the extent permitted by law, withhold payment during contest pendency. If Buyer is not so permitted, Supplier shall in good faith, as requested

by Buyer, contest the Taxes. Supplier shall supply Buyer with information and documents as Buyer may reasonably request to control or participate in any proceeding to the extent permitted herein.

- 8.5. Tax Refund and Indemnification: If Supplier receives a refund of any Taxes attributable to Buyer; Supplier shall pay such amount to Buyer within thirty (30) days of receipt. Supplier shall indemnify Buyer against any and all losses, costs, and expenses (including reasonable attorneys' fees) which result from Supplier's violation of its obligations under this Section.
- 8.6. Delivery of Software: Supplier shall deliver electronically via the internet all software of any type (including manuals) that are the subject of, rather than are ancillary to, the Order. Supplier shall separately itemize the costs of electronically delivered software, licenses, fees and all Services on all invoices. Invoices shall clearly indicate the manner of software delivery by inclusion of the phrase, "software delivered electronically to the customer via the internet." License locations should clearly be stipulated in the Order to allow for proper allocation of any Taxes owed.
- 8.7. Property Taxes: Buyer shall report and remit any Taxes relating to property for which Buyer retains title pursuant to the Order, accruing prior to and after the commencement of the Order. Where Supplier possesses Buyer-owned property, Supplier shall notify Buyer of any disposal or movement of such property. Supplier shall report and remit any property-related Taxes relating to property for which Supplier retains title pursuant to the Order, accruing prior to and after the commencement of the Order.

## **9. Inspection and Audit Rights**

- 9.1. Supplier (which, for the purposes of this Section, includes Supplier's suppliers) shall at any time, and after reasonable notice by Buyer, (i) grant to Buyer, Buyer's Customers and/or to any competent regulatory authority, unrestricted access to Supplier's books and records (including, without limitation, agreements and technical inspection and quality records, but excluding financial books and records), wherever such books and records may be located (including third-party repositories), and (ii) provide Buyer, Buyer's Customers and/or any such authority the right to access, and to perform any type of inspection, test, audit or investigation at Supplier's premises, including manufacturing and test locations for the purpose of enabling Buyer to verify compliance with the requirements set forth in the Order or for any other purpose indicated by Buyer's Customers and/or said authority in connection with the design, development, certification, manufacture, sale, use and/or support of the Goods. Supplier and its subcontractors shall furnish all reasonable facilities and assistance for the safe performance of the inspection, test, audit and/or investigation.
- 9.2. Supplier shall maintain complete inspection records for all Goods which shall be available to Buyer during performance of an Order and until the later of: (i) four (4) years after final payment, (ii) final resolution of any dispute involving the Goods delivered hereunder, (iii) the latest time required by an Order, (iv) the latest time required by applicable laws and regulations, (v) the latest time required by the ASQR-01 version effective as of the date of the Order, or (vi) as otherwise directed by Buyer.
- 9.3. Any corrective action requested by Buyer, Buyer's Customers and/or any said authority following any such inspection, test, audit or investigation shall be implemented by Supplier at no cost.

- 9.4. In addition to any other inspection or audit rights granted to Buyer hereunder, Buyer may inspect and audit, on reasonable notice, Supplier's financial books and records if the Order: (i) is a time and material order, (ii) is a cost-based order, or (iii) provides for advance or progress payments based on costs incurred by Supplier.

#### **10. Aviation Unique Requirements**

- 10.1. Supplier shall immediately notify Buyer upon receipt of any Government-Industry Data Exchange Program (GIDEP) Alert related to Goods, and shall provide Buyer a list of all affected Goods by Order, part number, invoice number, serial number, or any other identifying number as applicable. For GIDEP Alerts caused in whole or in part by the Goods, Supplier shall immediately replace all affected Goods at its sole expense including any installation and removal costs for the Goods so affected and reimburse Buyer for any damages and commercially reasonable expenses incurred by Buyer.
- 10.2. If the FAA, or other aviation authority, issues Airworthiness Directives (ADs), or the equivalent of Airworthiness Directives, related to Goods, Supplier shall immediately remove the cause(s) of the ADs or AD equivalents in all Goods delivered and to be delivered to Buyer including but not limited to Goods utilized in the field. Supplier shall reimburse Buyer for any costs and damages associated with removal and redelivery of Goods, incurred by Buyer as a result of such ADs or equivalent of ADs which are attributable to the Goods.
- 10.3. Following completion of any Buyer required reviews and approvals, Supplier shall provide all Service Bulletins, Safety Bulletins and Administrative Directives (collectively in this sub-Section "Bulletins") to Buyer immediately upon issuance. Supplier shall implement Supplier's recommendations contained in Bulletins on all Goods delivered and to be delivered.

#### **11. Product Support Obligation**

- 11.1. Supplier shall maintain the ability to, and shall, provide product support for the Goods, which shall include, without limitation, assuring that subcomponents and materials are available, maintaining tooling and other production capability and re-engineering components or systems to address obsolescence until the later of twenty five (25) years after the last Order is placed by Buyer for Goods or less than five (5) end products incorporating Goods are in operation anywhere in the world.
- 11.2. In the event that the Parties enter into a separate Product Support Agreement ("PSA") and the PSA contains language addressing Supplier's product support obligations addressed herein, or any other product support obligations, the PSA shall take precedence over the terms herein.
- 11.3. Any agreement limiting pricing for Goods purchased under this Order to production purposes only, and not spare parts or other product support purposes, shall be null and void unless approved by an attorney in Buyer's Legal Department.

#### **12. Buyer-Furnished and Buyer-Funded Items**

- 12.1. All material, including information, required to be furnished to Supplier under the Order ("Buyer Furnished Items") shall be delivered as specified in the Order, or, if not specified, in sufficient time to enable Supplier's timely performance. Buyer shall have no liability to

Supplier for any delays or failures in the delivery of Buyer Furnished Items. If Buyer Furnished Items are not delivered to Supplier in sufficient time to enable Supplier to meet Delivery Dates, Supplier may notify Buyer of the delay and shall be entitled to an extension of such schedule equal to the period of the delay. Such adjustment shall be Supplier's sole remedy.

- 12.2. Title to all tooling, test equipment, and material identified as a separate line item under this or any previous Orders, or referred to in any agreement between Buyer and Supplier, and fabricated or acquired by Supplier ("Buyer Funded Items") shall vest in Buyer.
- 12.3. Buyer Furnished Items and Buyer Funded Items (collectively, "Buyer Items") shall be used only for the purposes of the Order. Supplier shall not use Buyer Items on any other order without Buyer's written permission. Supplier shall, at its own expense, (i) establish and follow a preventative maintenance calibration and repair program for, (ii) safely store (separated from other material where practicable), and (iii) maintain all Buyer Items in good, workable condition.
- 12.4. Supplier shall account to Buyer for the proceeds from the sale of scrap generated during the performance of the Order by the processing of Buyer Items unless Supplier reimburses Buyer at Buyer's then-current prices for any Buyer Items used by Supplier.
- 12.5. Title to any Buyer Items shall remain with Buyer. Buyer, in order to protect its interests, may require Supplier to execute documents that are related to the Buyer Items, including, Uniform Commercial Code financing statements or any similar documents. Supplier shall plainly mark and adequately identify Buyer Items as being Buyer's property. Supplier shall not substitute any property for or modify Buyer-Furnished Items.
- 12.6. Upon Buyer's request, Supplier shall provide an annual written inventory of Buyer's Items, including certification of compliance with this provision and proof of adequate insurance covering full replacement cost of Buyer Items.
- 12.7. Supplier shall, upon discovery, provide notification to Buyer if any Buyer Items are lost, damaged or destroyed. Upon completion or termination of the Order, or at any time upon Buyer's request, Supplier shall, at its own expense, dispose of Buyer Items in accordance with Buyer's instructions.
- 12.8. If Buyer Items are furnished to Supplier in connection with the production of Goods to be imported by Buyer into the United States, Supplier shall comply with all instructions from Buyer to document the value of such Buyer Items as "assists" in compliance with U.S. Customs and Border Protection requirements.

### **13. Changes**

- 13.1. Buyer's authorized procurement representative (which does not include Buyer's engineering and technical personnel) may unilaterally make changes within the general scope of the Order, including changes in whole or part to: (i) shipping, waste reduction or packing instructions, (ii) place of delivery, (iii) any designs, Specifications and drawings, (iv) the statement of work, (v) the method or manner of performance, (vi) Buyer Items, facilities, equipment, or materials, (vii) Prime Contract flowdown requirements and/or (viii) quality requirements ("Change(s)"). Supplier shall perform any Changes ordered by Buyer. Any Order terms that incorporate flexibility for variations or modifications shall not be considered Changes within the meaning of this Section.

- 13.2. If any Change under this Section causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment shall be made in price or delivery schedule or both ("Adjustment Claim"), and Buyer shall modify the Order accordingly. Supplier must submit an Adjustment Claim in writing in the form of a complete change proposal, fully supported by factual information, to Buyer's procurement representative no later than fifteen (15) days after Supplier's receipt of the Change.
- 13.3. If the cost of property or material made obsolete or excess as a result of a Change is included in the Adjustment Claim, Buyer may direct the disposition of such property or material. Notwithstanding any pending Adjustment Claims, Supplier shall diligently proceed with the performance of the Order, as directed by Buyer.
- 13.4. If Supplier considers that Buyer's conduct constitutes a Change, Supplier shall notify Buyer's authorized procurement representative immediately in writing as to the nature of such conduct and its effect upon Supplier's performance. Supplier shall take no action to implement any such Change without written direction from Buyer's authorized procurement representative.
- 13.5. Supplier shall not make any changes to Goods, including, without limitation, in form, fit, function, or classification, or to any component or software (collectively, "Engineering Changes") without: (i) submitting an Engineering Change Request; (ii) receiving from Buyer an acceptance of the Engineering Change; and (iii) submitting final Engineering Change data, which data shall be delivered to Buyer no later than thirty (30) days prior to the Delivery Date.
- 13.6. Buyer shall have absolute discretion in determining the classification of the Goods, and Buyer may reject any changed Goods which fail to comply with the applicable Change procedures.

#### **14. Stop Work Order**

- 14.1. Buyer may, from time to time, require Supplier to stop all or any portion of the work called for by the Order for a period of up to 120 days ("Stop Work Period") per occurrence. Upon receipt of written notice detailing the length and scope of the Stop Work Period, Supplier shall immediately comply with its terms at no charge. Within the Stop Work Period, Buyer shall either: (i) cancel the stop-work order and Supplier shall resume work; or (ii) terminate the work covered by the stop-work order, for default or convenience, as the context requires, in accordance with the provisions of the Order.

#### **15. Termination for Default**

- 15.1. Buyer may, by written notice, terminate the Order (which, for the avoidance of doubt, includes the Agreement) or any portion thereof, for default without any liability or obligation whatsoever to Supplier for the portion terminated, in the following circumstances: (i) Supplier fails to perform any obligation hereunder, including a delivery obligation; (ii) when Buyer has reasonable grounds for insecurity, and Supplier fails to provide adequate assurances of performance within ten (10) days following Buyer's demand therefore; or, (iii) should Supplier (a) become insolvent, (b) become unable to pay its debts as they mature, (c) make a general assignment for the benefit of creditors, (d) have a receiver appointed for the whole or any substantial part of its assets, or (e) become in any way the subject of a bankruptcy petition.

- 15.2. Buyer shall have no liability in relation to those Goods terminated for Supplier's default. Supplier shall be liable to Buyer for any and all expenses, costs, and damages including increased procurement costs, requalification costs, and other non-recurring costs, except in the circumstance of any failure or delay constituting an "Excusable Delay" as set forth in the Section herein entitled "Force Majeure".
- 15.3. If the Order is entirely or partially terminated under this Section, Buyer, in addition to any other rights Buyer may have, may require Supplier, at no charge to Buyer, to: (i) deliver to Buyer all information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, utilized by Supplier in performing the Order; (ii) deliver the tooling and test equipment necessary to make or have made the Goods and provide technical and transition assistance; and (iii) provide to Buyer a worldwide, non-exclusive, paid-up, irrevocable, license, with the right to grant sublicenses, to Supplier's information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, to the extent necessary, to enable Buyer to make, have made, use, sell and license the Goods.
- 15.4. If, after notice of termination under this Section, it is determined that Supplier was not in default, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience Section. In such case, Supplier shall not be entitled to any remedy other than as provided for in the Termination for Convenience Section.

## **16. Termination for Convenience**

- 16.1. Buyer may, at any time, terminate all or part of the Order (which, for the avoidance of doubt, includes the Agreement), for its convenience upon written notice to Supplier.
- 16.2. Upon termination, in accordance with Buyer's written direction, Supplier will immediately: (i) cease work and place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Order; (ii) prepare and submit to Buyer an itemization of all completed and partially completed Goods and/or Services; (iii) deliver to Buyer any and all Goods completed up to the date of termination at the pre-termination Order price; and (iv) if requested by Buyer, deliver any work-in-process.
- 16.3. In the event Buyer terminates for its convenience after performance has commenced, Buyer will compensate Supplier only for the actual and reasonable work-in-process costs incurred by Supplier on Goods required to be delivered within the Lead Time period, calculated from Buyer's issuance of the notice of termination. If the Order does not specify Lead Time, Lead Time shall be the reasonable average lead time for the Goods in accordance with Buyer data. Supplier shall use reasonable efforts to mitigate its own and Buyer's liability under this Section. In order to receive compensation, Supplier's termination claim must be submitted within ninety (90) days from the effective date of the termination.
- 16.4. Buyer shall not be liable to Supplier for costs or damages other than as described above, and in no event for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the price allocated to the portion of the Order terminated.

## **17. Customs Trade Partnership Against Terrorism (C-TPAT) Program**

**Applicability:** This provision is applicable to Orders in which Goods will be shipped into the United States.

- 17.1. Supplier agrees that, during the period in which it ships Goods to Buyer, it and its subcontractors who either ship directly or package Goods for shipment will either (i) be certified under the Customs Trade Partnership Against Terrorism (“C-TPAT”) program by the U.S. Bureau of Customs and Border Protection or (ii) demonstrate to Buyer’s satisfaction that it meets the security requirements of C-TPAT. Accordingly, Supplier must either provide Buyer with documentation that it and its subcontractors are certified (e.g. C-TPAT certification or Status Verification Interface (SVI) number), or provide documentation and evidence satisfactory to Buyer to demonstrate compliance with C-TPAT security requirements, available at [www.cbp.gov](http://www.cbp.gov).
- 17.2. Upon five (5) days prior written notice, Buyer, or its designee, may audit all pertinent books and records of Supplier and its subcontractors, and make reasonable inspection of Supplier’s and its subcontractors’ premises, in order to verify compliance with the requirements of this provision.
- 17.3. Any delay in delivery due to Supplier’s failure to comply with this provision shall not relieve Supplier of its obligations and shall not constitute a force majeure or give rise to an Excusable Delay.

## **18. Intellectual Property Rights (for non-U.S. Government Orders)**

- 18.1. Background Intellectual Property shall mean all Intellectual Property other than Foreground Intellectual Property.
- 18.2. Foreground Intellectual Property shall mean all Intellectual Property and tangible work product conceived, created, acquired, or first reduced to practice in connection with the Order.
- 18.3. Each Party retains its existing rights in Background Intellectual Property.
- 18.4. Buyer shall own all Foreground Intellectual Property. Supplier shall disclose to Buyer all Foreground Intellectual Property. If not expressly required to be delivered in the Order, Supplier shall deliver to Buyer all Foreground Intellectual Property upon written request from Buyer. Supplier hereby irrevocably assigns to Buyer all right, title and interest to all Foreground Intellectual Property. Supplier agrees to do all things reasonably necessary to enable Buyer to secure and perfect Buyer’s Foreground Intellectual Property rights, including, without limitation, executing specific assignments of title in Foreground Intellectual Property by Supplier to Buyer and cooperating with Buyer at Buyer’s expense to defend and enforce Buyer’s rights in any such Foreground Intellectual Property. All Foreground Intellectual Property assigned to Buyer pursuant to the Order shall be considered Buyer’s Proprietary Information (defined hereinafter). Supplier agrees that, for any works of authorship created by Supplier or any employees or any others used by Supplier in the course of the Order, those works that come under one of the categories of “Works Made for Hire” in 17 U.S.C. §101 shall be considered "Works Made for Hire". For any works of authorship that do not come under such categories, Supplier, warranting that it has the right to do so, hereby assigns all right, title, and interest to any copyright in such works to Buyer and will execute, or cause to be

executed at Buyer's expense, any documents required to establish Buyer's ownership of such copyright.

- 18.5. Supplier represents and warrants that Supplier has sufficient rights in all Goods, Services, and Intellectual Property and other items that Supplier uses or transfers to Buyer in connection with the Order to allow Supplier to lawfully comply with the Order.
- 18.6. Supplier hereby grants to Buyer and Buyer's Affiliates a worldwide, non-exclusive, perpetual, fully-paid, irrevocable, transferable license to Background Intellectual Property (i) to use, sell, offer for sale, import, export, copy, adapt, embed, modify, make derivative works, make and have made Goods and Services, and (ii) to enable Buyer to practice the Foreground Intellectual Property.
- 18.7. Supplier hereby irrevocably waives all moral rights to the extent permissible by law, all rights of privacy and publicity, and the like, in all Goods provided to Buyer and in all activities in connection with the Order.
- 18.8. Supplier represents and warrants that Supplier shall not provide, in the performance of the Order, any software, (including free software, open source software, freeware, General Public License-governed software, or the like), in any form that is subject to any obligations or conditions that could reasonably or arguably could provide a legal right to any third party to access such software and/or source code, or that could otherwise impose any limitation or condition on Buyer's use, reproduction, modification, distribution or conveyance of such software.
- 18.9. Except as expressly authorized herein, nothing in the Order shall be construed as Buyer granting Supplier a license in or any right to use any of Buyer's Intellectual Property other than in the performance of work under the Order.

## **19. Intellectual Property Indemnification**

- 19.1. Supplier shall indemnify and hold harmless Buyer, its Affiliates, subsidiaries, agents, directors, officers, and employees, and each subsequent purchaser or user, from any losses, costs, damages, and liabilities, including, without limitation, any attorney's fees, court costs and fines, arising from any potential or actual claim, suit, injunction, action, proceeding, or investigation alleging infringement or violation of any Intellectual Property rights or license, related to the manufacture, use or sale of any Goods or Services delivered or performed in connection with the Order ("Claim").
- 19.2. Supplier shall not be liable for any Claim based on Supplier's compliance with any Specification created by the Buyer, unless: (i) Supplier could have complied with Buyer's Specification using a solution that was non-infringing; (ii) the Specification was derived from, or provided by, Supplier; or (iii) Supplier knew or should have known of a Claim or potential Claim and did not promptly notify Buyer in writing.
- 19.3. Supplier shall, upon written notice from Buyer of a Claim, promptly assume and diligently conduct the entire defense of a Claim at its own expense. Insofar as the Buyer's interests are affected, the Buyer shall have the right, at its own expense and without releasing any obligation of the Supplier, to participate and intervene in a Claim. Buyer shall have the right to reasonably reject counsel selected by Supplier. Supplier shall not enter into any settlement without Buyer's prior written consent, which shall not be unreasonably withheld.

- 19.4. Buyer may supersede Supplier in the defense of any Claim, and assume and conduct the defense at Buyer's sole discretion. In such an event, Supplier shall be released from any obligation to pay for attorneys' fees and court costs, but not settlement or damages, and any such release is expressly conditioned on Supplier's complete cooperation with Buyer in Buyer's defense of such Claim at Buyer's expense. Buyer shall not enter into any settlement without Supplier's prior written consent, which shall not be unreasonably withheld.
- 19.5. If the manufacture, use or sale of the Goods is enjoined by a court, if delivery is precluded by a government entity, or should Supplier refuse to supply Goods to avoid a potential third party claim, Supplier shall avoid any disruption to Buyer and shall (i) secure for Buyer the right to use or sell such Goods; (ii) modify or replace such Goods with equivalent non-infringing Goods; or (iii) provide such other solution acceptable to Buyer. Supplier shall reimburse Buyer for Buyer's costs incurred in obtaining all internal, external and Buyer Customer approvals, qualifications, certifications, and the like, necessary for making, using and selling alternate non-infringing Goods. Supplier shall refund to Buyer the purchase price of any such Goods that Buyer is prohibited from using or selling.

## **20. Proprietary Information**

- 20.1. "Proprietary Information" shall mean all information, knowledge or data (including without limitation financial, business, and product strategy information; product specifications; product designs; procedures; studies; tests; and reports) in written, electronic, tangible, oral, visual or other form, (i) disclosed by, or obtained from, Buyer or (ii) conceived, created, acquired, or first reduced to practice in connection with the Order. If Buyer furnishes sample products, equipment, or other objects or material to Supplier, the items so received shall be used and the information obtained from said items shall be treated as if they were Proprietary Information disclosed in connection with the Order.
- 20.2. Unless the Supplier has received the Buyer's express written consent to the contrary, Supplier shall (i) use the Proprietary Information solely for the purposes of the Order, and not for any other purpose (including, without limitation, designing, manufacturing, selling, servicing or repairing equipment for entities other than Buyer; providing services to entities other than Buyer; or obtaining any government or third party approvals to do any of the foregoing); (ii) safeguard the Proprietary Information to prevent its disclosure to or use by third parties; (iii) not disclose the Proprietary Information to any third party; and (iv) not reverse engineer, disassemble, or decompile the Proprietary Information.
- 20.3. Supplier may disclose the Proprietary Information to officers, directors, employees, contract workers, consultants, agents, affiliates or subcontractors of the Supplier who have a need to know such Proprietary Information for the purposes of the Order and who have executed a written agreement with the Supplier obligating such entity or person to treat such information in a manner consistent with the terms of this Section.
- 20.4. The Order shall not restrict the Supplier from using or disclosing any information that, as proven by written contemporaneous records kept in the ordinary course of business: (i) is or may hereafter be in the public domain through no improper act or omission of the Supplier or a third party; (ii) is received by the Supplier without restriction as to disclosure by the Supplier from a third party having a right to disclose it; (iii) was known to Supplier on a non-confidential basis prior to the disclosure by the Buyer; or (iv) was

independently developed by employees of the Supplier who did not have access to any of Buyer's Proprietary Information.

- 20.5. If Proprietary Information is required to be disclosed pursuant to judicial process, Supplier shall promptly provide notice of such process to Buyer and, upon request, shall fully cooperate with Buyer in seeking a protective order or otherwise contesting such a disclosure. Disclosure of such requested Proprietary Information shall not be deemed a breach of the Order provided that the obligations of this Section are fulfilled by Supplier.
- 20.6. Buyer shall have the right to audit all pertinent documentation of the Supplier, and to make reasonable inspection of the Supplier's premises, in order to verify compliance with this Section.
- 20.7. Obligations in this Section regarding Proprietary Information shall continue until such time as all Proprietary Information is publicly known and generally available through no improper act or omission of the Supplier or any third party.
- 20.8. Unless required otherwise by law or the Order, the Supplier shall promptly return, or otherwise dispose of Proprietary Information as the Buyer may direct. Absent contrary instructions, Supplier shall destroy all Proprietary Information one (1) year after termination or completion of the Order and provide written acknowledgement to Buyer of such destruction.
- 20.9. Supplier agrees to cause all information regardless of form (including, for example, electronic, magnetic and optical media, software, and compilations), containing or derived in whole or in part from Proprietary Information to bear the following legend:

**This document contains the property of United Technologies Corp. and/or a United Technologies Corp. Affiliate. You may not possess, use, copy or disclose this document or any information in it for any purpose, including without limitation to design, manufacture, or repair parts, or obtain FAA, Transport Canada Civil Aviation (TCCA), or other government approval to do so, without express written permission. Neither receipt, from any source, nor possession of this document, constitutes such permission. Possession, use, copying or disclosure by anyone without express written permission of United Technologies Corp. and/or the United Technologies Affiliate issuing the Order is not authorized and may result in criminal and/or civil liability.**
- 20.10. Notwithstanding any proprietary or confidential labels or markings, all information of Supplier disclosed to Buyer relating to the Order will be deemed non-confidential and the content of the Order may be disclosed by Buyer to any United Technologies Corp. Affiliates. Moreover, Buyer may disclose all Supplier information, in accordance with applicable governmental regulations, to the FAA, the European Aviation Safety Agency (EASA), TCCA, any other governing international airworthiness certifying authority, and/or any other department or agency of the U.S. Government, including, without limitation, for the purpose of obtaining necessary government approvals.
- 20.11. Supplier agrees that it will not accept from any third party, or use, any information that appears to be similar to Proprietary Information without first obtaining Buyer's express written consent, except that Supplier may receive solicitations or purchase orders issued by a partner or higher-tier supplier of Buyer that expressly reference a Buyer Purchase Order and contain obligations no less stringent than this Section. Supplier shall promptly notify Buyer if Proprietary Information is offered to Supplier by a third party or of the suspected possession of Proprietary Information by a third party.

- 20.12. Supplier agrees to notify Buyer in writing and to obtain Buyer's written consent, not to be unreasonably withheld, prior to manufacturing any parts for another entity that have the same form, fit and function as any parts Supplier manufactures for Buyer using Proprietary Information. Supplier's notification shall describe the parts to be manufactured for the other entity, identify the corresponding parts Supplier manufactures for Buyer and provide Buyer with sufficient information to demonstrate that Supplier will manufacture such parts without reference to or use of Proprietary Information. If Supplier manufactures or sells any such parts without obtaining Buyer's written consent (or applies for or assists another entity in obtaining FAA or other government approval for such parts), then it shall be considered a breach of the Order and Buyer shall be entitled to injunctive relief and such other remedies as a court may order.
- 20.13. Supplier shall not make accessible or sell completed or partially completed or defective Goods manufactured using or containing Proprietary Information to any unauthorized third parties. Goods not provided to Buyer shall be disposed of in a manner that prevents disclosure of Proprietary Information (including by reverse engineering).
- 20.14. For proprietary information exchanged in connection with the Order, the terms of this Section shall supersede any provisions regarding the protection of proprietary information in any other agreement between the Parties.

## **21. Offset**

- 21.1. Buyer may use all or any part of the value of the Order, including the value of any subcontracts placed by the Supplier for the Order, for satisfying international offset obligations of Buyer, Buyer's Affiliates, or any entity that Buyer transfers such value to. Supplier may use the offset credit generated by the Order or the subcontracting of the Order only upon Buyer's written approval.
- 21.2. Supplier shall support Buyer in meeting Buyer's offset requirements in proportion to the value of the Goods supplied by Supplier to the value of the end item sold by Buyer into the particular country.
- 21.3. Upon Buyer's request the Supplier shall (i) report all subcontract sources outside the United States utilized in the fulfillment of this Order, including the name and location of each such source, amounts paid and committed thereto and identification of the Goods or Services procured, and (ii) require its subcontractors, including those at all lower tiers, to maintain records of the above information.

## **22. Insurance**

- 22.1. Without limiting Supplier's duty to hold harmless and indemnify hereunder, Supplier agrees to secure and carry as a minimum the following insurance with respect to all work to be performed under the Order for the duration of the Order: (i) Workers' Compensation Insurance, inclusive of an alternate employer endorsement, in an amount sufficient by virtue of the laws of the U.S., foreign country, state, or other governmental subdivision in which the work or any portion of the work is performed and Employer's Liability Insurance in the minimum amount of \$1,000,000 for any one occurrence; (ii) Commercial General Liability Insurance including Premises Liability and contractual Liability, in which the limit of liability for property damage and bodily injuries, including accidental death, shall be at a minimum, a Combined Single Limit of \$5,000,000 for any one occurrence; (iii) if Supplier vehicles are used on Buyer's premises and/or used to

- accomplish work under the Order or otherwise on behalf of Buyer, Automobile Liability Insurance in which the limit of liability for property damage and bodily injuries, including accidental death, shall be a combined single limit of \$1,000,000 for any one occurrence; (iv) if Supplier or its subcontractors have Buyer's materials or equipment in its care, custody or control, Supplier shall have and maintain All-Risk Property Insurance in an amount sufficient to meet or exceed the value of such material; (v) if Supplier is performing Professional Services on behalf of Buyer, Supplier shall maintain Professional Liability Insurance with a limit of no less than \$5,000,000;
- 22.2. The following shall apply if Supplier is providing product, component parts, materials or work to be incorporated in aircraft where such products, parts or materials are classified as Flight Safety Parts (FSP) or its equivalent or having Critical Characteristics (CC) or its equivalent in accordance with the current revision of ASQR-01, ASQR-09.1 and/or any documents referenced therein: Supplier shall maintain Aircraft Product Liability, Completed Operations Liability and, if applicable to the Goods or Services, Hangarkeepers Liability Insurance coverage in a minimum amount of Combined Single Limit of \$50,000,000 for any one occurrence and in the aggregate where applicable, including AV52 Coverage. In the event Supplier carries higher limits of liability, the higher limits of liability must be certified to Buyer. Such insurance shall remain in effect for two (2) years after the expiration or termination of the Order.
- 22.3. All such insurance shall be issued by companies authorized to do business under the laws of the State or jurisdiction in which all or part of the Services are to be performed, and must have an AM Best financial rating of A- or better or an equivalent rating as produced by another rating agency acceptable to Buyer.
- 22.4. The insurance coverages described above shall be in form satisfactory to Buyer, and shall contain a provision prohibiting cancellation or material change except upon at least ten (10) days' (seven (7) days in the case of War Risks Insurance) prior notice to Buyer. All such insurance policies will be primary in the event of a loss arising out of the Supplier's performance of work and shall provide that where there is more than one insured the policy will operate, except for the limits of liability, as if there were a separate policy covering each insured and shall operate without right of contribution from any other insurance carrier by Buyer. Certificates evidencing such insurance and endorsements naming UTC and the Buyer as an additional insured or, in the case of All Risk Property Insurance, naming UTC and the Buyer as a loss payee, shall be filed with Buyer upon execution of the Order and before commencement of any work hereunder, and within thirty (30) days after any renewals or changes to such policies are issued. To the extent permitted by law, Supplier and its insurer(s) agree that subrogation rights against UTC and the Buyer are hereby waived; such waiver shall be reflected on the insurance certificate. Supplier shall, if requested by Buyer, advise Buyer of the amount of available policy limits and the amounts of any self-insured retention.
- 22.5. The certificate of insurance shall identify the contract number or work to be performed and shall acknowledge that such coverage applies to liabilities incurred by supplier, its employees, invitees or agents under the Order and that such insurance shall not be invalidated by any act or neglect of the supplier whether or not such act or neglect is a breach or violation of any warranty, declarations or conditions of the policies.
- 22.6. Supplier shall require its subcontractors to maintain insurance in the amounts and types required by this provision

### **23. Disaster Recovery**

- 23.1. If Supplier is (i) providing Flight Safety Parts in accordance with the current revision of ASQR-01, ASQR-09.1, and/or any documents referenced therein; (ii) a sole source of supply; or (iii) providing products whose Lead Time exceeds one hundred twenty (120) days; or as otherwise directed by Buyer, Supplier shall develop and maintain a Disaster Recovery Plan acceptable to Buyer for the recovery and continuation of business related to the design, development, certification, manufacture, sale, use and/or support of the Goods furnished hereunder, in the event of a disaster or emergency. Such plan shall, among other things, prevent or limit the interruption of the supply of Goods in conformity with the requirements set forth herein. Supplier shall furnish a copy of Disaster Recovery Plan to Buyer upon request.

### **24. Standards of Business Conduct**

- 24.1. Supplier shall adopt and comply with a policy statement or code of conduct regarding business ethics ("Code"). This Code will be suitable for Supplier's business and as a minimum will require compliance with all applicable laws and regulations. The Code shall assure a safe and healthy work environment, prohibit the use of child or forced labor, provide for the protection of the environment and minimization of waste, emissions, energy consumption and the use of materials of concern and prohibit engagement in corrupt practices (e.g. facilitating, offering or paying any bribe). This provision creates no additional duties for Buyer with respect to Supplier and confers no rights on third parties.

### **25. Compliance with Laws**

- 25.1. Supplier shall comply with all applicable national, state, provincial, and local laws, ordinances, rules, and regulations applicable to the performance of the Order, except to the extent inconsistent with US anti-boycott laws, including (i) the manufacture or provisioning of Goods, (ii) the shipping of Goods and (iii) the configuration or content of Goods for the use intended by Buyer.
- 25.2. Supplier shall, at the earliest practicable time, notify in writing Buyer if Supplier is (i) suspended, debarred, or proposed for suspension or debarment from doing business with the U.S. Government, or (ii) listed or is proposed to be listed by the U.S. Government in any "denial orders," as a "blocked person," as a "specially designated national," or as a "specially designated terrorist" for U.S. export administration purposes (collectively, "Debarment"). Any such suspension or debarment shall act as a cause for the Buyer to terminate the Order under the Section entitled Termination for Default.

### **26. Applicable Law and Forum**

- 26.1. The Order shall be interpreted in accordance with the plain English meaning of its terms and the construction thereof shall be governed by the laws in force in the State of New York, USA, without regard to conflicts of law principles. Services shall be deemed to be Goods for the purposes of this paragraph (i.e., the application of governing law). Buyer may, but is not obligated to, bring any action or claim relating to or arising out of the Order in the appropriate court, or arbitration forum, if arbitration is required by law or the

Order, in the jurisdiction described above, and Supplier hereby irrevocably consents to personal jurisdiction and venue in any such court, hereby appointing the pertinent Secretary of State or other applicable government authority as agent for receiving service of process.

- 26.2. Any action or claim by Supplier with respect hereto shall also be brought in the appropriate court in the jurisdiction described above, if Buyer so elects. Accordingly, Supplier shall give written notice to Buyer of any such intended action or claim, including the intended venue thereof, and shall not commence such action or claim outside of such jurisdiction if Buyer, within thirty (30) days from receipt thereof, makes its election as aforesaid. If Buyer and Supplier mutually agree to participate in alternative dispute resolution, Supplier agrees that all alternative dispute resolution proceedings shall take place in New York. Pursuant to Article 6 of the United Nations Convention on Contracts for the International Sale of Goods, the Parties exclude the application of the provisions of said Convention to all transactions relating to the Order.

## **27. Export Control**

- 27.1. Supplier shall comply with the most current export control and sanctions laws, regulations, and orders applicable at the time of the export, re-export, transfer, disclosure or provision of Goods, Software, Technology or Services including, without limitation, the (i) Export Administration Regulations (“EAR”) administered by the Bureau of Industry and Security, U.S. Department of Commerce, 15 C.F.R. parts 730-774; (ii) International Traffic in Arms Regulations (“ITAR”) administered by the Directorate of Defense Trade Controls, U.S. Department of State, 22 C.F.R. parts 120-130; (iii) Foreign Assets Control Regulations and associated Executive Orders administered by the Office of Foreign Assets Control, U.S. Department of the Treasury, 31 C.F.R. parts 500-598; and (iv) laws and regulations of other countries (collectively, “Export Control Laws”).
- 27.2. Unless the Order is for Goods to be supplied on a “build to print” basis by Supplier, Supplier shall provide Buyer with either (i) the United States Munitions List (“USML”) category of such Goods, Software, Technology or Services that are controlled by the ITAR, or (ii) the Export Control Classification Number (“ECCN”) of such Goods, Software or Technology that are controlled by the EAR, to include the ECCN of parts and components if such classification differs from the ECCN of the Goods or Software. If Supplier is in the business of manufacturing, exporting or brokering USML items, Supplier represents that it maintains registration with the Directorate of Defense Trade Controls as may be required by 22 C.F.R. §§ 122.1 and/or 129.3 of the ITAR.
- 27.3. Supplier shall not export, re-export, transfer, disclose or otherwise provide Buyer’s technical data controlled by Export Control Laws (“Technical Data”) to any foreign persons or foreign commercial entities unless Supplier receives advance, written authorization from Buyer. Any subcontracts between foreign persons in the approved country for manufacture of Goods or provision of Services shall contain all the limitations of this paragraph and shall comply with all applicable export licenses or authorizations. Upon completion of its performance under the Order, Supplier and its subcontractors shall destroy or return to the Buyer all Technical Data.

## **28. Toxic, Hazardous or Carcinogenic Substances**

- 28.1. Supplier represents and warrants that the Goods and any substances contained therein are not prohibited or restricted by, and are supplied in compliance with, any laws or regulations of any country or jurisdiction in the world, including but not limited to the United States, the European Union (“EU”), and nations adopting legislation similar to that of the EU, and that nothing prevents the sale or transport of the Goods or substances in Goods in any country or jurisdiction in the world and that all such Goods and substances are appropriately labeled, if labeling is required, and have been pre-registered and/or registered and/or authorized under REACH, if pre-registration, registration and/or authorization is required.
- 28.2. In addition to complying with REACH, the EU’s regulation of chemical substances (as is required under the Section hereto entitled “Compliance with Laws”), Supplier shall timely provide Buyer with all relevant information on the Goods so that the intent of REACH is met for communicating with downstream users as defined in Article 3(13) of REACH (any person established in the EU who uses a chemical substance in the course of his industrial or professional activities; the definition does not include the manufacturer, importer, distributor, or consumer), and in any case, Supplier shall provide all information necessary for the Buyer and/or any downstream user to timely and accurately fulfill their obligations under REACH.
- 28.3. Supplier shall bear all costs, charges and expenses related to pre-registration, registration, evaluation and authorization under the REACH Regulation of the chemical substances that are the subject of the Order.

## **29. Design and Process Specification Efforts**

**Applicability:** The following provision is applicable when (i) Supplier is designing new parts for Buyer, (ii) Supplier is developing new specifications for Buyer, or (iii) Supplier is creating new work instructions, assembly instructions, repair instructions or required processes for Buyer.

- 29.1. Supplier shall submit to Buyer’s procurement representative a written report of Materials of Concern (“MOC”) (as defined by Buyer’s design requirements, Specifications, or similar requirements supplied by Buyer) that are used in the production of, or are in, products that are the subject of the design, development or processing efforts. The MOC Report shall be submitted in the format specified by Buyer prior to Buyer’s Preliminary Design Review and again prior to Buyer’s Critical Design Review (or, if there are no such Reviews, concurrent with Supplier’s submission of the applicable drawings, specifications and/or instructions). The MOC Report shall give full details regarding the intended use of any MOC. Supplier shall cooperate with Buyer to consider other alternative materials as discussed at design reviews.

## **30. News Releases/Publicity**

- 30.1. Supplier shall not make or authorize any news release, advertisement, or other disclosure that relates to the Order or the relationship between Buyer and Supplier, denies or confirms the existence of the Order or makes use of Buyer’s name or logo, without the prior written consent of Buyer.

### **31. Assignment**

- 31.1. Any assignment by Supplier of the Order, in whole or in part, without Buyer's prior written consent shall be null and void, and shall constitute a material breach of the Order.

### **32. Setoff**

- 32.1. Buyer and its Affiliates may withhold, deduct and/or set off all money due, or which may become due to Supplier arising out of Supplier's performance under the Order or any other transaction with Buyer and its Affiliates.

### **33. Covenants Against Kickbacks**

- 33.1. Supplier has not and shall not offer or give anything of value (in the form of entertainment, gifts, or otherwise) to Buyer's employees or representatives for the purpose of obtaining the Order or favorable treatment under the Order.

### **34. Utilization of Small and Small Disadvantaged Businesses**

- 34.1. For work performed in the United States under Orders placed by United States Buyers, Supplier shall exercise reasonable commercial efforts to use small disadvantaged, minority, and women-owned enterprises. The overall target (i.e., dollar value, percentage of purchases, etc.) for purchases made from disadvantaged, minority, and women-owned suppliers may be negotiated as part of the Order. Upon request Supplier will provide monthly reports to Buyer detailing small disadvantaged, minority, and women-owned enterprises contracted in support of Supplier's obligations hereunder.

### **35. Duty to Proceed**

- 35.1. Except as expressly authorized in writing by Buyer, no failure of Supplier and Buyer to reach any agreement regarding a dispute related to the Order shall excuse the Supplier from proceeding.

### **36. Change in Control**

- 36.1. In the event there is a change in control with respect to Supplier, if a Buyer competitor or other Buyer supplier of similar Goods, gains control of Supplier or, in Buyer's sole judgment, Buyer is insecure about future performance or Buyer's commercial position as a result of a change in control, Buyer shall have the right to terminate the Order in whole or part upon thirty (30) days written notice with Buyer's only obligation to pay for those conforming Goods and Services actually received prior to the expiry of such thirty (30) day period. A change in control of Supplier is deemed to have occurred if there is a change in the beneficial ownership, directly or indirectly, of twenty-five (25%) or more of the ownership interests in Supplier.

### **37. Partial Invalidity/Unenforceability**

- 37.1. If in any instance any provision of the Order shall be determined to be invalid or unenforceable under any applicable law by any competent court or arbitration tribunal,

such provision shall be ineffective only to the extent of such prohibition or unenforceability. The remaining provisions shall be given effect in accordance with their terms. The provision declared invalid or unenforceable shall be deemed to be restated to reflect as nearly as possible the meaning and essence of such provision without rendering such amended provision invalid or unenforceable.

### **38. Survival**

38.1. All rights, obligations, and duties hereunder, which by their nature or by their express terms extend beyond the expiration or termination of the Order, including but not limited to warranties, indemnifications, intellectual property (including rights to and protection of intellectual property and proprietary information), and product support obligations shall survive the expiration or termination of the Order.

### **39. No Waiver**

39.1. No failure of any Party to exercise any right under, or to require compliance with, the Order, or knowledge of past performance at variance with the Order, shall constitute a waiver by such Party of its rights hereunder. No concession, latitude or waiver allowed by either Party to the other at any time shall be deemed a concession, latitude or waiver with respect to any rights unless and only to the extent expressly stated in writing, nor shall it prevent such Party from enforcing any rights in the future under similar circumstances.

### **40. Remedies**

40.1. The rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the Parties may have at law or in equity.

### **41. Order of Precedence**

41.1. If there are any inconsistencies or conflicts in the provisions applicable to the Order, precedence shall be given in the following descending order: (i) the face sheets of the Order including the price, price adjustment terms, specifications, shipping, quality requirements, drawings, work statements, and modifications to the Agreement and/or these Terms and Conditions that specifically reference the Section being modified; (ii) terms of any Agreement under which the Order is issued (ex., Long Term Agreement Terms and Conditions); (iii) these Terms and Conditions; and (iv) the terms of any separate Product Support Agreement entered into by the Parties.

### **42. Delays**

42.1. Whenever there is an actual delay or threat to delay the timely performance of the Order, Supplier shall immediately notify Buyer in writing of the probable length of any anticipated delay and take, and pay for, all activity to mitigate the potential impact of any such delay.

### **43. Force Majeure**

- 43.1. Supplier shall be liable for any failure or delay in performance in connection with the Order, except where such failure or delay results from causes that are, at one and the same time, unforeseeable, unavoidable, outside of its control and without its fault or negligence, provided Supplier gives Buyer, within three (3) days of Supplier's learning of such cause, written notice to the effect that a failure or delay by Supplier will occur or has occurred (an "Excusable Delay"). If a failure or delay in performance is caused by an event affecting any of Supplier's suppliers, such failure or delay shall not be excusable unless such event is an Excusable Delay as defined above and the good or service to be provided by such supplier is not obtainable by Supplier from other sources in time for timely delivery of the Goods to Buyer. Buyer may cancel without liability to Supplier its purchase of any Goods affected by Supplier's failure or delay in performance and, if the delay is expected to last for a period that could impact deliveries to Buyer's Customers, Buyer may cancel, without liability, any portion of or the entire Order.
- 43.2. Buyer shall be excused for any failure or delay in performance due to any cause beyond its reasonable control, including any cause attributable to Buyer Customers.

### **44. Subcontracting**

- 44.1. Supplier's subcontracting of all or substantially all of its responsibilities or obligations hereunder, without Buyer's prior written consent, shall be wholly void, invalid and totally ineffective for all purposes. In the case of any Buyer-approved subcontracting or delegation of any of Supplier's responsibilities or obligations hereunder, Supplier shall perform all supply management activities that are necessary for the on-time delivery of Goods conforming to the requirements set forth herein. Supplier shall be solely and fully responsible for monitoring said suppliers under all provisions of the applicable subcontracts, and for ensuring that each of its suppliers comply with the requirements set forth herein. Supplier shall remain fully liable to Buyer for, and shall be Buyer's sole point of contact for, all aspects of proper performance of the Order, regardless of (i) any subcontracting, (ii) Buyer approval of the subcontractors, or (iii) Supplier's failure to provide for provisions in the relevant subcontracts that comply in substance with the requirements set forth herein.

### **45. Dispute Resolution**

- 45.1. Except as provided below, prior to a Party initiating a formal legal proceeding relating to a dispute under an Order, that Party must provide the other with a written request for dispute resolution. Each Party shall, within five (5) calendar days after such written request is received, designate a representative who will be responsible for negotiating, in good faith, a resolution of the dispute. Should the representatives fail to reach agreement within thirty (30) calendar days of receipt of the request, vice presidents of each Party shall attempt to resolve the issue within sixty (60) calendar days of receipt of such written request.
- 45.2. Either Party may (i) resort to a formal legal proceeding for equitable relief at any time and (ii) institute litigation in order to avoid the expiration of any applicable limitations period or to preserve a superior position with respect to other creditors.

- 45.3. Each Party shall continue performing its obligations under the Order pending resolution of the dispute. The dispute resolution procedures set forth herein do not supersede, delay or otherwise affect any rights of termination that are expressly set forth in these Terms and Conditions.

#### **46. Provisions for Orders under U.S. Government Contracts**

- 46.1. For Orders issued under Prime Contracts with the U.S. Government or subcontracts at any tier under U.S. Government contracts, the provisions of the version of “**U.S. Government Provisions and Clauses for Orders Under U.S. Government Contracts**” in effect on the date of the particular Order shall apply. These provisions are made available on the Internet at the following URL and will be provided to Supplier in hard copy upon written request.

<http://www.Sikorsky.com/vgn-ext-templating-SIK/v/index.jsp?vgnextoid=8a98e39d40a78110VgnVCM1000001382000aRCRD>

The Parties recognize that the URL may change from time to time and agree that any such change will not affect the applicability of the material referenced.

### **SECTION IB – SCHWEIZER SPECIFIC REQUIREMENTS**

#### **47. Additional Provisions for Orders Under U.S. Government Contracts**

- 47.1. **CONTRACTOR MANPOWER REPORTING:** The Office of the Assistant Secretary of the Army (Manpower & Research Affairs) operates and maintains a secure Army data collection site where Supplier must report ALL contractor manpower (including subcontractor manpower) required for performance of services in support of this Order. Supplier is required to completely fill in all the information in the format using the following web address: <https://cmra.army.mil>. The required information includes: (1) Supplier name, address, phone, e-mail address; (2) Estimated direct labor hours (including subcontractors); (3) Estimated direct labor dollars paid this reporting period (including subcontractors); and (4) Locations where Supplier and its subcontractors perform the work (specified by zip code in the United States and nearest city, country, when in an overseas location, using standardized nomenclature provided on website). As part of its submission, the contractor will provide the estimate total cost (if any) incurred to comply with this reporting requirement. Reporting period will be the period of performance not to exceed 12 months ending 30 September of each government fiscal year and must be reported by 31 October of each calendar year.
- 47.2. **DD FORM 254:** Concurrence of the Government’s Contracting Officer and PEO Aviation Security Office/Foreign Disclosure Officer must be obtained prior to issue of a Limited Access Authorization to a non-U.S. Citizen in compliance with the NISPOM. Controlled Unclassified Information as defined in DoD 5200.1.R., Appendix C, may be disclosed to U.S. persons who are employed by the Supplier, or to such employees who are foreign persons when requirements of export control and other laws are met. The Supplier is responsible for compliance with all applicable laws and regulations governing access to Classified Military Information or Controlled Unclassified Information. The Supplier is not authorized to release any data to foreign nationals or foreign representatives without an approved export license. If Supplier subcontracts with foreign entities in connection with this Order that require access to US Classified Military Information or Controlled

Unclassified Information, then the Supplier shall provide Buyer with a listing of those foreign entities. The list, which will be provided to the Government, will also include the country of origin, work being performed, export license number and by name and citizenship of any third party national citizens performing on Supplier's subcontract. NSA Industrial COMSEC Manual, NSA/CSS Policy Manual 3-16, August 2005, applies to this contract. Supplier's access to DTIC information is restricted to contractual subject matter and SOW performance requirements. The Government will verify Supplier's need-to-know via submission of DD forms 1540 and 1541 to DTIC. All classified processing will be prepared on a computer accredited at the appropriate classified level.

- 47.3. SPECIALTY METALS: Supplier acknowledges that it has read the information contained on Buyer's Supplier Portal regarding specialty metals (as that term is used and defined in the DFARS). Supplier agrees that it will not incorporate into any Goods to be delivered under this Order, specialty metals not melted in the United States, its possessions, Puerto Rico, or a qualifying country. Supplier will flow down DFARS 252.225-7014, ALT I, to its suppliers with instructions that Supplier's suppliers must flow DFARS 252.225-7014, ALT I, to their suppliers. To ensure compliance, Buyer may require the following information from Supplier: (i) methods the Supplier uses to verify whether or not its Goods contain specialty metals; (ii) Supplier's methods of validating that it has received compliant hardware quotes from its suppliers; (iii) methods of flowing down specialty metals requirements to Supplier's suppliers; (iv) Supplier's record management practices regarding specialty metals compliance; (v) Supplier's inventory process for identifying and handling compliant hardware; and (vi) Supplier's specialty metals training requirements. Supplier shall immediately notify Buyer in writing if its Goods or any component thereof qualify for an exception to the specialty metals requirements. Exceptions to DFARS 252.225-7014, ALT I, include the following:

*Qualifying Country* – End items, parts, components, etc., that are manufactured in a qualifying country listed in DFARS 225.872-1 are exempt from the ALT I requirements, regardless of where the specialty metals in such end items, parts, components, etc. have been melted. In this regard, note that the United States is not a qualifying country. If Supplier asserts that its Goods qualify under this exception, Supplier must provide Buyer with documents and information sufficient to support the application of this exception.

*Domestic Non-availability Determination* – DCMA maintains a list of Domestic Non-Availability Determinations (DNADs) approved by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) resulting from DCMA reviews of contractor corrective action plans (CAPs). This list may be accessed at the following link: <http://www.dcmamail.dnad/>. If Supplier asserts that its Goods are covered by a DNAD, Supplier must provide Buyer with documents and information sufficient to support the application of this exception.

#### 48. Schweizer Security Requirements

**Applicability:** Supplier shall comply with the provisions of this Section if its Work under the Order requires access to any Buyer facility or computer system ("Buyer Premises"). For the purposes of sub-Sections 48.1 and 48.2 below, access to Buyer Premises does not include physical access to Buyer Premises where the Supplier Employee is not required to obtain a Schweizer clock number or photo identification. If the Work is for the United States Government, or of a character which Buyer, in its absolute discretion, determines require

them, the Enhanced Requirements set forth below shall apply. For all other Work, the Minimum Requirements set forth below shall apply unless Buyer, in its absolute discretion, determines that the Enhanced Requirements shall apply to the particular job assignment or Supplier Employee.

48.1. Access to Buyer Premises – Minimum Requirements

48.1.1. Supplier shall only provide employees, agents, representatives, subcontractors, subcontractor employees, or any other individual acting on Supplier’s behalf, or under its control (collectively “Supplier Employee”), to perform the Work who:

48.1.1.1. are United States citizens, permanent resident aliens, or possess a visa or other documentation authorizing employment in the United States<sup>1</sup>;

48.1.1.2. have not been convicted of any violation of law (including military law), which is a felony; and

48.1.1.3. comply with any other criteria Buyer, in its absolute discretion, shall establish for access to Buyer’s Premises (collectively “Minimum Requirements”).

48.2. Access to Buyer Premises – Enhanced Requirements

48.2.1. Supplier shall only provide Supplier Employees to perform the Work who, in addition to the Minimum Requirements:

48.2.1.1. are a “US person” as such term is defined by 22 CFR 120.15;

48.2.1.2. have a current United States Government personal security clearance;

48.2.1.3. provide ChoicePoint (a third party background investigation service) with a Order signed by the Supplier Employee authorizing and allowing ChoicePoint to conduct a background investigation into such matters as ChoicePoint, in its absolute discretion, determines are required to verify compliance with this Section and Buyer’s Security Rules whether set forth herein or elsewhere (“Buyer’s Security Rules”);

48.2.1.4. receive a certificate of satisfactory completion of a background investigation from ChoicePoint;

48.2.1.5. have completed Buyer’s security questionnaire to Buyer’s satisfaction;

48.2.1.6. have neither a conviction for any violation of law (including military law), nor charges pending adjudication for violation of any ordinance, regulation, or law (including military law), where such violation would be a felony.

48.3. General Requirements (applicable for all Work performed on Buyer Premises)

48.3.1. Supplier Employees shall (i) complete and submit any and all administrative forms required by Buyer; (ii) possess and display a valid access badge at all times while on Buyer Premises; and (iii) register their vehicles with the applicable security office and comply with all parking restrictions.

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<sup>1</sup> Includes, but is not limited to: a United States passport, certificate of United States citizenship (N-560 or N-561), certificate of naturalization (N-550 or N-570), alien registration receipt card with photograph (I-151 or I-151), unexpired foreign passport with I-551 stamp, unexpired temporary resident card (I-688A), unexpired re-entry permit (I327), unexpired refugee travel document (I-571), certificate of birth abroad (FS-545 or DS-1350), report of birth abroad (FS-240) or original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States which bears an official seal.

- 48.3.2. Supplier Employees shall not: (i) conduct any personal or business activities unrelated to the Order, including without limitation, interviews, hirings, dismissals or personal solicitations; (ii) conduct Supplier's personnel training, except for on-the-job training; (iii) attempt to participate in Buyer benefit plans or activities; (iv) send or receive mail or electronic messages through Buyer's mail or computer systems unrelated to the Order; (v) sell, advertise or market any products or distribute printed, written or graphic materials; (vi) possess weapons of any kind; (vii) manufacture, sell, distribute, possess, use or be under the influence of controlled substances (for non-medical reasons) or alcoholic beverages; (viii) possess hazardous materials of any kind unless the Work provided under the Order so require or Buyer otherwise authorizes them; (ix) leave authorized areas (limited to the work locations, cafeterias, rest rooms and, in the event of a medical emergency, the Buyer's medical facilities) without an escort as provided in Buyer's Security Rules.
- 48.3.3. Supplier shall inform Buyer immediately of any matter which could negatively impact Supplier's continued compliance with the provisions of this Section 47. Buyer may require Supplier to remove or reassign non-compliant Supplier Employees, require additional or further certification, or re-certification, under this Section 47, or to take such other and further action as Buyer, in its sole discretion, deems appropriate.
- 48.3.4. If Supplier Employees have access to information, information assets, supplies or other property, including property owned by third parties but provided to Supplier personnel by Buyer (collectively "Buyer Assets"), Supplier Employees shall: (i) not remove Buyer Assets from Buyer's Premises; (ii) only use Buyer Assets for purposes of this Order and reimburse Buyer for any unauthorized use; (iii) only connect with, interact with or use programs, tools or routines that Buyer agrees are needed to provide Supplier's Services; (iv) not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers; and (v) if Buyer Assets are confidential, will not copy, disclose or leave such assets unsecured or unattended.
- 48.3.5. Buyer shall have the right, in its absolute discretion, to: (i) require each Supplier Employee to complete a security questionnaire; (ii) audit the methodology, process and results used by Supplier in conducting its background investigations, or otherwise to confirm that Supplier and Supplier Employees are complying with the provisions of this Section; (iii) deny access to Buyer's Premises to any Supplier Employee at any time for any reason; and (iv) require a Supplier Employee to comply with the provisions of this Section.
- 48.3.6. The person, property, and vehicle(s) of any Supplier Employee entering or leaving any Buyer Premises shall be subject to search. Supplier shall promptly notify Buyer of (i) any accident or security incidents involving loss of, or misuse of or damage to, Buyer Assets; (ii) physical altercations, assaults, or harassment; and (iii) provide Buyer with a copy of any accident or incident report related thereto.
- 48.3.7. If Supplier desires to use a non-compliant Supplier Employee, or otherwise desires to deviate from the provisions of this Section (e.g., for a Supplier Employee whose denial for assignment to perform the Work for a reason provided in this Section would be a violation of applicable law), Supplier shall submit a written request to Buyer for a waiver. The request shall set forth, as applicable, the criminal record, citizenship status, or other deviation of the effected Supplier Employee, along with the reason the waiver is required. Buyer has absolute discretion in determining whether to grant a waiver, and its determination shall be final and non-reviewable.

- 48.3.8. Supplier shall bear all expenses Supplier required to comply with this Section, including without limitation, any costs for ChoicePoint background investigations and certificates, and any costs for re-certifications or further certifications.
- 48.3.9. Notwithstanding anything in this Section to the contrary, Buyer has absolute discretion, at will, for any lawful reason, or for no reason at all, to: (i) deny any Supplier, or Supplier Employee access to Buyer's Premises; (ii) limit freedom of movement within Buyer's Premises; (iii) limit the period of time access is allowed; or (iv) make any other changes to Buyer's Security Rules it deems appropriate.
- 48.3.10. In addition to the foregoing, Supplier shall:
  - 48.3.10.1. Maintain, and deliver to Buyer upon request, an accurate, current, and complete list of the names and social security numbers of Supplier Employees on Buyer Premises.
  - 48.3.10.2. Deliver to each Supplier Employee prior to his/her arriving at Buyer Premises the following notice on sexual harassment: *"Schweizer is committed to providing a work environment free from sexual harassment. Sexual harassment is unwelcome sexual conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or which creates an offensive or hostile work environment. If you believe that you have been the victim of sexual harassment while working on Schweizer facilities, you are encouraged to report such incidents directly to your employer and directly to Schweizer."*
  - 48.3.10.3. Maintain a signed acknowledgment that each person will comply with Buyer's Security Rules including search guidelines.
  - 48.3.10.4. Not assign a Supplier Employee to perform services under this Order who is a former Buyer employee, or who has committed unethical or unlawful acts against a former employer, including without limitation, acts of industrial espionage, defalcation, misappropriation of Proprietary Information or any other theft offense or act of moral turpitude, whether criminal or civil and regardless of whether the act or omission was prosecuted criminally or civilly.
  - 48.3.10.5. At Buyer's request, at any time and for any reason or no reason at all, Supplier shall remove a Supplier Employee from Buyer's Premises and not reassign such person to work on Buyer's Premises.
  - 48.3.10.6. Upon Buyer's request, provide documentation to verify compliance with this Section.
- 48.4. Computer/Information Technology Security Procedures
  - 48.4.1. If this Order requires that Supplier have access to information owned, managed or protected by Buyer (whether belonging to Buyer or a third party and whether residing on Buyer's own network or on a network of a Buyer participating site - by way of example, a third party Internet Service Provider, disaster recovery facility or remote data storage facility), including, without limitation, personally-identifiable information of Buyer employees, and other information protected by applicable domestic or foreign privacy laws, Supplier shall at all times maintain effective security for information used, stored and created by Supplier - in whatever media - in performing services under this Order (collectively "Buyer Information").

- 48.4.2. Supplier, to secure and protect Buyer Information, shall install and maintain sufficient security procedures, including, without limitation, security hardware, software, firewalls, filters and other security tools, and implement procedures and policies (collectively "Computer Security Procedures"). Supplier shall continuously update its Computer Security Procedures as required to maintain the level of security necessary to secure Buyer Information and comply with the provisions of this Section (Supplier's Computer Security Procedures shall be sufficient under this section if they comply with the *Statement on Auditing Standards (SAS) No. 70, Service Organizations*, type II, issued by the American Institute of Certified Public Accountants). Supplier shall:
- 48.4.2.1. Keep current, and deliver to Buyer upon request, its Computer Security Procedures and continuous improvement plans.
  - 48.4.2.2. Store Buyer Information in its possession in a dedicated secure environment owned and maintained by Supplier. Supplier may submit a written request in advance for a waiver of this provision to allow storage of Buyer Information in a shared environment. Buyer has absolute discretion in determining whether to grant a waiver, and its determination shall be final and non-reviewable.
  - 48.4.2.3. Permit Buyer, upon reasonable notice, to audit Supplier, at Supplier's facility or remotely, for compliance with this Section. The audit shall include any facilities with Buyer Information including, without limitation, remote sites and backup storage facilities. If Supplier stores Buyer Information in a shared environment, Buyer may use a third party to conduct such audits.
  - 48.4.2.4. Segregate all Buyer Information into a separate database only accessible by Buyer and its agents and those employees of Supplier for whom it is necessary to work with or maintain the equipment and the program on which it runs, unless otherwise agreed by Buyer. Supplier shall enforce its Computer Security Procedures to the utmost against unauthorized persons, including without limitation, Supplier's own unauthorized employees from accessing Buyer Information.
  - 48.4.2.5. Back up all Buyer Information and applicable software and have a reliable, effective and adequately tested disaster recovery plan, which shall be reasonably acceptable to Buyer.
  - 48.4.2.6. Avoid, to the greatest extent commercially reasonable, the transfer of Buyer Information across public networks, and encrypt any transfers. Encryption algorithms shall be of sufficient strength to equate to 128-bit RC-4 or better.
  - 48.4.2.7. In addition to any background investigations it must conduct on Supplier Employees to comply with this Section, conduct appropriate background checks on all non-Buyer personnel and non-Supplier Employees who will have access to Buyer's Information – regardless of the environment – to ensure those individuals comply with the applicable provisions of this Section.
  - 48.4.2.8. Upon Buyer's request, provide to Buyer a termination plan stating: (i) the method for returning or destroying Buyer Information, including backup and archival information; (ii) time frames for completing the termination plan and the return of Buyer Information; and (iii) the method for permanently removing Buyer Information from Supplier's networks, equipment and facilities including, without limitation, third party facilities wherein Buyer Information resides. The

termination plan shall include a provision for supplying the data to Buyer in an industry recognized non-proprietary database and, if not, a license to use the proprietary data base software to access the data and audit compliance of the termination plan with this Section.

- 48.4.2.9. Upon Buyer's request, provide to Buyer the procedures and method Supplier shall use to comply with Buyer's requirements for high risk/ high sensitivity data applications of two-factor authentication access, and for medium risk applications of "Strong Password" data control.
- 48.4.2.10. Provide information and cooperation to Buyer: a. in response to any governmental information request including, without limitation, a subpoena, an investigative request or other judicial, administrative or legislative inquiry seeking Buyer Information, b. to clarify and provide documentation relative to Buyer's Information including information in the possession of Supplier. Supplier shall promptly notify Buyer upon its receipt of a request requiring Supplier to provide Buyer Information to a third party.
- 48.5. Supplier acknowledges that failure to comply with the provisions of this Section may constitute a violation of federal or state law. Notwithstanding any provision of this Order to the contrary, a breach of any provision of this Section shall constitute a material breach of this Order. If Buyer elects not to terminate the Order for Supplier's default, Supplier shall have an ongoing obligation to fulfill this Order and to substitute Supplier Employees who comply with the provisions of this Section. Supplier's inability of to comply with the provisions of this Section shall not excuse the Supplier from non-performance.

## **49. Training**

- 49.1. Upon request, Supplier shall provide training data for maintenance of the Goods including but not limited to training syllabus, length of training, recommended class size, instructor materials and training materials. The training material shall provide a technician with the necessary knowledge and skills to perform the recommended maintenance on the Goods. Upon request, Supplier shall provide pricing to conduct both practical hands-on training and classroom instruction at a location designated Buyer.

## **50. Technical Support Services**

- 50.1. Upon request, Supplier shall promptly provide Buyer all technical assistance necessary to service, maintain, inspect, repair, overhaul and operate the Goods. Supplier shall make technical visits to Buyer's designated facility as requested/required. Technical assistance shall include: (i) visits by Supplier's service representatives, including field service representatives to Buyer or Buyer's customers, to investigate specific problems with Goods, including without limitation, fault isolation, problem analysis, and rework and repair assistance; (ii) participation by Supplier's technical representatives in operator conferences and similar technical, sales and marketing events as reasonably requested by Buyer.

## **51. Technical Publications**

- 51.1. Supplier shall keep and maintain all technical publications for the Goods (“Technical Publications”) so that they are: (i) technically accurate, (ii) adequate to enable Buyer and Buyer’s customers to perform the functions provided for herein, and (iii) fully compliant with the FAA, NAA, EASA, or military specification requirements. Supplier shall fully and successfully validate all Technical Publications prior to their issuance and use. Upon Buyer’s request, Supplier shall furnish such Technical Publications at no cost. Buyer shall have unlimited rights to use, reproduce or incorporate into end products the contents of Technical Publications.

## **52. Ground Support Equipment (“GSE”)**

**Applicability:** Applicable only to Goods which require the use of GSE

- 52.1. Upon request, Supplier shall submit a list of all the GSE associated with the Goods. Supplier shall offer pricing for all GSE required in maintaining the Goods.
- 52.2. Upon request, Supplier shall deliver a GSE illustrated tool and equipment manual consisting of an illustration, description and explanation of the function for each item of GSE (“GSE Manual”).

## **53. Overhaul and Repair**

**Applicability:** Applicable to Goods can be overhauled or repaired.

- 53.1. Supplier shall maintain for the later of twenty five (25) years after the last Order is placed by Buyer for Goods or less than five (5) end products incorporating Goods are in operation anywhere in the world the capability to repair and overhaul Goods (“Overhaul and Repair Services”) or provide items in exchange for Goods requiring Overhaul and Repair Services (“Exchange Goods”).
- 53.2. The warranty applicable to Goods which have been subject to Overhaul and Repair Services or have been substituted with Exchange Goods shall be as set forth in Article 6 “Warranty”, with the exception that Goods may be new and the warranty shall not extend beyond eighteen (18) months from the return of Goods to Buyer.
- 53.3. Upon request, Supplier shall work with Buyer to develop, approve, and recognize Buyer owned and affiliated service centers as authorized warranty and repair stations for the Goods to perform Overhaul and Repair Services. Notwithstanding the foregoing, Supplier shall deliver to Buyer all information necessary to permit Buyer to perform Overhaul and Repair Services.

## **54. Provisioning**

- 54.1. Upon request, Supplier shall provide recommendations for Goods provisioning to Buyer.
- 54.2. Upon request, Supplier shall attend pre-provisioning conferences with Buyer to review Supplier’s provisioning recommendations.

## **55. Reliability**

**Applicability:** Applicable to Supplier-designed Goods.

- 55.1. Supplier shall compile, from Order issuance until the later of twenty five (25) years after the last Order is placed by Buyer for Goods or less than five (5) end products incorporating Goods are in operation anywhere in the world, real-time information and quantitative metrics for the reliability of the Goods including, where applicable, actual mean time between failure and actual mean time between unscheduled removal metrics; reliability program status; conformity of Goods produced; Goods support; maintenance; overhaul; removal data including unscheduled removals; consumption of Goods and sub-components; and other data related to the reliability of Goods and support activities ("Reliability Metrics"). Supplier shall maintain Reliability Metrics in a database and establish a continuous improvement process reasonably acceptable to Buyer which incorporate reliability improvements into the Goods.
- 55.2. Upon request, Supplier shall deliver to Buyer Reliability Metrics in a format acceptable to Buyer, review Reliability Metrics and develop such corrective action plans as may be required.

## **56. Obsolescence Management**

- 56.1. Supplier shall maintain, at its own expense, an obsolescence management program that includes an on-going review and identification of actual and potential obsolescence issues, including but not limited to, obsolescence of components, assemblies, sub-assemblies, and material for the Goods. ("Obsolescence Management Program"). The Obsolescence Management Program shall remedy any and all obsolescence issues arising for the Goods. Supplier shall perform all testing, qualification, non-recurring activities, and engineering services required for maintaining an Obsolescence Management Program. In no event shall remedying an obsolescence issue: (i) entitle Supplier to a price increase, (ii) entitle Supplier to make a claim for equitable adjustment, or (iii) waive, relieve or release Supplier from fulfilling all its duties under the Order including, without limitation, compliance with Specifications and Delivery Dates.

## **57. Report on Non-US Sources**

- 57.1. Upon Buyer's request the Supplier shall (i) report all subcontract sources outside the United States utilized in the fulfillment of this Order, including the name and location of each such source, amounts paid and committed thereto and identification of the Goods or Services procured, and (ii) require its subcontractors, including those at all lower tiers, to maintain records of the above information.

## **SECTION II - QUALITY ASSURANCE PROVISIONS**

The following provisions apply to this Order if noted on the face sheet of the Order.

1. Two copies of Certificate of Compliance certifying that goods, items, and supplies meet all applicable specification and drawing requirements signed by a representative of Seller are required to be retained by Seller subject to audit and examination at all times by Buyer. If at any time Buyer requests a copy of a Certificate of Conformance for any particular shipment under this Purchase Order, Seller shall within three (3) working days of receipt of such request provide a certified copy of such form to Buyer. Seller shall retain the Certificate of Conformance and all supporting documentation pursuant to the

record retention requirements in Clause 2 below. Additionally, all inspection records, including but not limited to test results, material certification, and supplier inspection checklists, representative of the Goods in accordance with contract requirements shall be all-inclusive and presented to Buyer upon presentation of the Goods for Buyer's inspection at Seller's facility.

2. Seller shall maintain supporting evidence for the period required by Buyer's Quality record retention requirement, as applicable. This documentary evidence shall be made available to Buyer for inspection upon Buyer's request.
3. Seller's Material Certificate showing chemical, physical and other requirements listed on the applicable specifications, signed by an authorized company representative, for Purchase Orders identifying SAC inspection at seller's facility shall have chemical, physical and other requirements listed on the applicable specifications on file at seller's facility and shall be made available to buyer for inspection upon buyer's request. Purchase Orders identifying SAC inspection at buyer's facility must have certification and or test reports attached to the packing slip accompanying each shipment.
4. When Seller is manufacturing supplies for which Seller retains design responsibility, minor non-conformances can be processed by the Seller using Seller's documented Non-conforming Material Control System. However, Buyer always retains design responsibility for the design and interface requirements on all Specification and Source Control Drawings. Seller shall submit a Non-conforming Material Rejection Report in sufficient time prior to shipment for dispositioning any design specification or interface non-conformances. Further, Seller shall submit documentation to Buyer describing any major non-conformances which affect or involve critical parts, safety, performance, reliability, service life, weight or appearance (when applicable) relative to Seller's design responsibility drawings. Seller shall submit a Request for Waiver or Deviation (DD Form 1694 or letter format is acceptable) to the cognizant buyer in Buyer's Material Department, Purchasing Section, unless otherwise directed by the technical data specification cited in the Purchase Order prior to shipment to Buyer in sufficient time to enable Buyer's Program Management Team to determine what action should be taken with respect to the subject non-conforming material.
5. The requirements of SA908, Section II, Clause 06 as stated below are applicable.
  - 5a. **RESERVED**
  - 5b. A statement certifying that each shipment of material supplied under this Purchase Order has been inspected and is in full compliance with all applicable drawings and specifications shall be completed and retained on file at Seller's facility. Seller shall provide upon request of Buyer a statement certifying compliance with the Purchase Order requirements.
6. The goods, items and supplies purchased under this Order are subject to the requirements of AS9100. Seller shall flow down the applicable requirements of this Order to its lower tier suppliers. Any changes made to a lower tier supplier process, or operations by Seller or its lower tier supplier(s) after submittal of qualification samples or initial deliveries, shall be controlled with documented evidence that the changes have been independently verified to assure continued conformance to the requirements of this

Order including but not limited to safety, performance, reliability, interchangeability, service life, weight or appearance (when appearance is applicable).

7. All Flight Safety Parts and or assembly(s) containing Flight Safety Parts are to be in strict accordance with Flight Safety Parts requirements of the Purchase Order contract herein.
8. All nonconforming material dispositioned in accordance with Buyer's Material Review Board procedures, which cannot be inspected upon receipt at the Buyer's facility, must be inspected and accepted by Seller, at the facility of the Seller prior to shipment to Buyer. Prior to shipment to Buyer, Seller shall notify Buyer in the event that Buyer wants to perform any inspection verification. If Buyer determines that source verification is required, Seller shall notify Buyer seven (7) working days in advance of the date on which the subject material will be ready for Buyer's inspection. All material in this category shall be properly identified and segregated from conforming material when shipped to Buyer.

#### **9-13 RESERVED**

14. In the event that Seller receives a Buyer Approved Source List for Special Processes and Laboratories dated subsequent to the edition shown on the face of this Purchase Order and that new edition affects the material to be delivered hereunder, Seller shall do the following:
  - a. In the event that affected material is in process, or the process is contracted for, or there is a cost impact on this Purchase Order, Seller shall promptly give written notice to the responsible Buyer, Purchasing Department, to that effect; or
  - b. Proceed in accordance with the new edition in the event that the conditions of Paragraph (a) above are not present.
  - c. Seller shall maintain an original Special Process Certification from approved sources listed on Buyer's Approved Source List for all Purchase Orders which identify that Buyer's inspection is to be conducted at Seller's facility. Seller shall present the Special Process Certification to Buyer during source inspection. Furthermore, Seller must maintain this original Special Process Certification at their facility and submit copies of this Special Process Certification upon request.

#### **15-19 RESERVED**

20. All parts requiring ATP delivered to Buyer must have a certificate which attests to the fact that the equipment has passed the acceptance tests and shall list the Part Number and the ATP Number and the applicable revision thereto maintained at the Sellers facility. Buyer reserves the right to witness testing of parts, and review of ATP results on file.

### **SECTION III – ADDITIONAL QUALITY ASSURANCE PROVISIONS**

**Applicability:** The following Section III provisions apply to all Orders except as specifically qualified within the text of the provision.

## 1. Flight Safety Parts

**Applicability:** Applicable only to Flight Safety Parts

- 1.1. Buyer, in its absolute discretion, may designate a part as a flight safety part ("Flight Safety Part(s)") on the Order. The provisions of this paragraph, Flight Safety Parts, shall apply to all Flight Safety Parts.
- 1.2. If this Order is for Goods, which are, or contain, a Flight Safety Part(s), Supplier, at its own cost and expense (except as otherwise explicitly noted), shall:
  - 1.2.1. maintain, at all times, a Buyer-approved quality system. In addition to any requirements identified in Section II, Quality Assurance Provisions above, Supplier shall comply with the requirements of Buyer's Aerospace Supplier Quality Requirements ("ASQR") as set forth on the Order;
  - 1.2.2. as requested, deliver to Buyer for approval, which approval shall be within the sole and absolute discretion of Buyer, all records and documentation related to the manufacture, testing, storage, handling and all other matters related to the integrity and quality of the Goods, including operation sheets, training records, routing guides, parts traceability procedures, planning and processing documentation, and quality assurance and inspection processes and procedures (hereinafter collectively referred to as "Flight Safety Parts Documentation") relating to, or arising out of, Supplier's proposed performance of processes and/or characteristics of the Goods, which Buyer, in its sole and absolute discretion, identifies on the Order as critical ("Critical Characteristics or Processes"). Upon Buyer's approval of Flight Safety Parts Documentation, including those operations identified as Critical Characteristics or Processes, they shall be deemed "frozen";
  - 1.2.3. make such changes, including to Goods, Flight Safety Parts Documentation and/or Critical Characteristics or Processes as may be required to obtain and maintain Buyer's approval of the Flight Safety Parts Documentation;
  - 1.2.4. not make changes to its Flight Safety Parts Documentation, Critical Characteristics or Processes, or other aspects of the processes or characteristics of Goods frozen by the Buyer, or use any alternate material, without the prior written approval of Buyer, provided however, Supplier may make such minor changes as are expressly reserved to Supplier's discretion in the Flight Safety Parts Documentation;
  - 1.2.5. develop and maintain as part of its Flight Safety Parts Documentation, a process for verification and certification of compliance with all the requirements of the Flight Safety Parts Documentation, which shall include a system to certify and verify that each Critical Characteristic or Process is strictly complied with, and that the Goods were manufactured/processed in compliance with the Flight Safety Parts Documentation;
  - 1.2.6. maintain all Flight Safety Parts Documentation for a period of forty (40) years after delivery of the Goods; Buyer may from time to time inspect Supplier's books and records and audit them for compliance with the requirements of this Section; and
  - 1.2.7. in the event that Buyer identifies a product safety concern relating to or arising from a Flight Safety Part, and in advance of commencing negotiations for requests for

equitable adjustment or cost recovery, immediately comply with Buyer's direction to provide technical/engineering expertise, process design changes, and supply materials, components, and/or parts necessary to mitigate or alleviate the product safety concern.

- 1.3. If Supplier is responsible for the procurement of Flight Safety Parts for integration into the Goods, Supplier shall:
  - 1.3.1. procure Flight Safety Parts from sources which have been approved by Buyer for the manufacture Flight Safety Parts, as set forth in the Buyer's Quality System.
  - 1.3.2. have all Flight Safety Parts inspected by a Buyer approved inspector of Flight Safety Parts.
  - 1.3.3. comply with all rules set forth in Buyer's Quality System regarding the procurement of Flight Safety Parts, including but not limited to compliance with Buyer's SS9211 Specification, incorporated herein by reference.
  - 1.3.4. incorporate in all orders with its subcontractors for Flight Safety Parts, a requirement for compliance with Buyer's SS9211 Specification.
- 1.4. Supplier hereby, acknowledges, represents and warrants that it retains complete and sole responsibility for compliance with the provisions of this paragraph, and that any actions of Buyer related to any aspect of the matters issues addressed in this Section, including, approval of any documentation prepared by Supplier, or providing to Supplier recommendations, assistance, inspection, sources of supply, modifications or alternatives for documentation, characteristics or processes, shall not in any way limit, diminish, amend, modify or alter any duties of Supplier under this paragraph or the Order.
  - 1.4.1. Supplier shall not use, or seek approval for the use of, Non-Conforming Material, for which a NMRR/DR has been filed, in connection with a Critical Characteristic or Process.
  - 1.4.2. From time to time, Buyer may add or delete Critical Characteristics or Processes at no additional cost or liability. For those Critical Characteristics or Processes that are added, Supplier, at its own expense, shall comply with all the provisions of this Section.

## **2. Quality Assurance**

- 2.1. All physical and functional configuration of Goods shall comply with the requirements of the Order. Supplier shall, at Buyer's request and at no expense to Buyer, perform physical and functional configuration audits of Goods. Supplier shall retain the results of the audit in accordance with the record retention requirements set for in the ASQR and make them available to Buyer upon request. Supplier shall at its own expense correct all physical and functional configuration discrepancies immediately upon discovery.

## **3. First Article/Qualification Testing**

- 3.1. If required by Buyer, Supplier, at its own expense, shall test Goods, processes, procedures and facilities in conformance with the requirements of this Order including the performance of a first article inspection/qualification testing ("FAI"). Supplier's duty(ies), and obligation to perform a duty at its own expense, under this Paragraph shall

- be applicable to all FAI's including those required at the commencement of a Supplier relationship, introduction of a new part number or Good, or as a result of Supplier's action such as moving manufacture of Goods to another location.
- 3.2. At least thirty (30) calendar days before commencing a FAI, Supplier shall deliver written notice to Buyer of the time and location of the FAI. Buyer may witness the FAI, and Supplier, if requested by Buyer and at Supplier's own expense, shall make all commercially reasonable accommodations including making available suitable temporary office space for Buyer.
  - 3.3. Upon Supplier's completion of the FAI, Supplier shall deliver the FAI test report in accordance with the delivery schedule in this Order. Supplier shall mark the FAI test report "FIRST ARTICLE TEST REPORT: Order No.\_\_\_\_, Lot/Item No.\_\_\_\_". Within sixty (60) calendar days after Buyer's receipt of the FAI test report, Buyer shall notify the Supplier, in writing, of its approval, conditional approval, or disapproval. Approval or conditional approval shall not relieve Supplier from complying with all requirements of the Specifications and all terms and conditions of this Order. If Buyer disapproves a FAI, Buyer shall set forth its basis for the disapproval.
  - 3.4. If Buyer disapproves of a FAI, Supplier, upon Buyer's request and at its own expense, shall repeat the FAI and make any necessary changes, modifications and/or repairs to Goods, processes, procedures and/or facilities to complete successfully the FAI. If Buyer is performing the FAI, Supplier shall as requested by Buyer and at Supplier's cost and expense, make changes to Goods, processes, procedures and/or facilities in order for Buyer to complete successfully the FAI. All costs relating to additional tests or re-test whether performed by Buyer or Supplier shall be borne by Supplier.
  - 3.5. Prior to Supplier's receipt of Buyer's approval of a FAI, Supplier's performance of any preparatory steps toward, or actual, performance of any portion of an Order including acquisition of sub-assemblies, materials or components, or the commencement, or completion, of production of Goods, and any risks associated with such efforts, (collectively "Speculative Steps") shall be at Supplier's sole risk. Without limiting the generality of the foregoing, the costs of Speculative Steps shall not be allocable to this Order for any reason including: (1) progress payments, or (2) if the Order is terminated for the convenience of Buyer, termination settlements.
  - 3.6. Notwithstanding the generality of the expense allocation provisions of paragraph 51.5 above, if prior to Supplier's receipt of Buyer's approval of an FAI, Supplier is permitted or required by Buyer, on terms mutually agreeable to the Parties, to perform Speculative Steps to the extent essential to meet the Order's Delivery Dates, Buyer's granting of permission to undertake Speculative Steps is not a waiver of any of Buyer's rights and does not relieve Supplier from any of the requirements of this Order. Notwithstanding Buyer's permission or requirement to commence Speculative Steps, if a FAI when finally conducted reveals deviations or differences from Order requirements, the Supplier shall make the required changes and/or replace all the effected Goods at no cost to Buyer including without limitation, retrofit, removal and reinstallation costs for items in Aircraft, and shall, at no cost to Buyer, make all modifications necessary to assure that Goods in production comply with the requirements of this Order.
  - 3.7. The Goods delivered for FAI and those delivered as production quantities shall be manufactured/produced at the same facility. If Supplier wishes to change the location of manufacture of such Goods, it shall submit to a new FAI in accordance with the

procedures set forth in this Section. Supplier shall bear all costs of the new FAI, including Buyers' quality and engineering costs to support the FAI.

#### **4. Configuration Control**

- 4.1. Supplier shall comply with the requirements set forth in this Order for controlling the configuration of Goods, supplies or items required under this Order.

#### **5. Buyer Approved Parts**

- 5.1. Supplier represents and warrants that if required to use specific sub-assemblies, parts and materials in Goods from a specific list including, the Qualified Parts List, Qualified Manufacturers List, Buyer's Specification/standard approved source of supply, Engineering Source Control drawing, Specification control drawing, Qualified Process List, Material and Process List or any applicable qualified products/processes list ("Approved Part(s)", and the lists singularly or collectively as the context requires "Approved List(s)") it has only used, and shall only use the specific Approved Part and that the Approved Part has been manufactured by, or procured from, source(s) on the specific Approved List(s).

#### **6. Solder**

- 6.1. Supplier, and Supplier's sub-tier suppliers, shall not use lead-free solder in Goods. For the purposes of this Section, solder shall be considered lead-free if it has a lead content of less than three percent (3%). Supplier may request a waiver of this duty by applying in writing to Buyer's Standards Department.

#### **7. Wire and Cable Use and Handling**

**Applicability:** If Supplier uses silver-plated copper wire in any application in Goods, Supplier shall comply with the following requirements.

- 7.1. At no time during handling shall the wire/cable (collectively "Wire") ends be exposed to moisture or water. A controlled environment shall be maintained throughout the harness/assembly (collectively "Harness") process to eliminate the necessity of end sealing the Wire. No Wire ends shall be terminated that show any signs or other visual evidence of "Red Plague". Once the packaging has been removed in an uncontrolled environment, all manufacturers, distributors, sub-contractors and partners shall follow the end-seals requirements. Any Wire that has been processed and not terminated for modification, re-work or replacement, that is susceptible to an uncontrolled environment shall be put into a sealed bag with a desiccant. Any Wire that is in an uncontrolled environment and not terminated shall be inspected for evidence of Red Plague. The Wire bending radius shall not be violated at anytime during spooling, manufacturing, modification or re-work. The removal/stripping of Wire shall only be accomplished with approved tools, calibrated to assure that the center conductors and plating are not nicked or damaged.
- 7.2. Storage of Wire shall be in a controlled environment, which is defined as a temperature not to exceed 84 degrees Fahrenheit and humidity not to exceed 70%.
- 7.3. Packaging for Wire shall be as follows:

- 7.3.1. AWG sizes 10 and smaller
  - 7.3.1.1. Cut and splice all lengths together (i.e., WECO splice)
  - 7.3.1.2. Seal unplaced ends with heat-shrinkable end caps
  - 7.3.1.3. Use plastic spools only
  - 7.3.1.4. Bag each spool in clear plastic with desiccant, then individually box
  - 7.3.1.5. All spools and box labels to include the following statement: “ WARNING: MOISTURE DAMAGE WIRE (CABLE) – KEEP ENDS SEALED”
- 7.3.2. AWG sizes 8 and larger
  - 7.3.2.1. Cut and splice all lengths together (i.e., WECO splice); then cover all splices with heat-shrinkable tubing
  - 7.3.2.2. Seal un-spliced ends with heat-shrinkable end caps
  - 7.3.2.3. Use 24” wood reels, with plastic wrap extending beyond the flanges and covering the spooled wire with a desiccant
  - 7.3.2.4. All reels labeled to include the following statement: “ WARNING: MOISTURE DAMAGE WIRE (CABLE) – KEEP ENDS SEALED”

## **8. VR/DR Charges**

- 8.1. Notwithstanding any provision of this Order to the contrary and without limiting any of Buyer’s other rights or remedies, Supplier shall pay to Buyer all damages, costs and expenses incurred by Buyer as a result of its failure to perform its duties herein. In addition, if Buyer processes an VR/DR, the Parties acknowledge that the costs and expenses associated with the NMRR process are not subject to exact calculation and that a charge of \$1000 may be assessed by Buyer as liquidated damages solely for processing each VR/DR. The VR/DR liquidated damages shall be in addition to, and shall neither be a waiver of, nor otherwise limit, Buyer’s ability to pursue, claims for other damage against Supplier resulting from its failure to perform its duties herein.

**THESE TERMS AND CONDITIONS CONSTITUTE THE STANDARD TERMS AND CONDITIONS OF PURCHASE FOR SCHWEIZER AIRCRAFT CORP., AND ARE INCORPORATED IN THEIR UNMODIFIED ENTIRETY BY REFERENCE INTO ALL SCHWEIZER AIRCRAFT CORP. PURCHASE ORDERS UNLESS OTHERWISE SPECIFIED THEREON. ANY MODIFICATION OF THESE TERMS AND CONDITIONS SHALL REQUIRE THE SIGNATURE OF AN AUTHORIZED REPRESENTATIVE OF EACH PARTY IN THE SPACE BELOW. THESE TERMS AND CONDITIONS SHALL NOT BE BINDING UPON THE PARTIES UNTIL THE ISSUANCE OF AN ORDER FROM BUYER TO SUPPLIER.**