

**FIELD AVIATION GENERAL TERMS AND CONDITIONS FOR VENDORS OR  
SUBCONTRACTORS PERFORMING WORK AT THE CALGARY OR MISSISSAUGA FACILITIES  
(FACI-GTC-005)**



These General Terms and Conditions, together with the accompanying Field Aviation Purchase Order constitute the terms and conditions for the Agreement between Field Aviation and Seller, and acceptance is strictly limited to the terms and conditions contained herein. **Additional or differing terms or conditions proposed by Seller, whether in a quote, acceptance or delivery document, shall have no effect unless accepted in writing by Field Aviation. In particular, any limitation of liability or disclaimer of warranty by Seller is expressly rejected.** Return of the Field Aviation Purchase Order signed by Seller, or agreement by Seller to furnish the goods or services subject to these terms and conditions, or Seller's commencement of such performance or acceptance of payment shall constitute acceptance by Seller of this Agreement.

**1. Definitions:** The following terms shall have the described meaning:

"Buyer" shall mean Field Aviation.

"Agreement" shall mean the Field Aviation Purchase Order, these General Terms and Conditions, and any special conditions attached hereto or documents incorporated herein.

"Goods" or "Services" or "Product" shall mean those Goods or Services identified in this Agreement, which may be changed, from time to time by the mutual written agreement of the parties.

"Seller" shall mean the party identified as the Seller in this Agreement, and includes (unless specified otherwise) any and all employees, agents or subcontractors of Seller. Where appropriate, and without limiting the foregoing definition of "Seller", Seller's employees, agents or subcontractors may be referred to as "Seller's Personnel".

**2. Independent Contractor:** Seller represents and acknowledges that it is not an employee of nor an agent of Buyer, and that it shall be acting as an independent contractor in the fulfillment of its duties under this Agreement. Seller represents and warrants that it has obtained all licenses and permits necessary to carry on its business, and that none of the persons providing services on its behalf will be Buyer employees.

Seller is solely responsible for all matters relating to compliance with statutory and other legal obligations arising from the responsibilities and services described in this Agreement, including matters arising between Seller and Seller's personnel. Such obligations include, but are not limited to: (a) remuneration; (b) discipline; (c) assessment of and withholding for income tax; (d) employment insurance (EI); (e) Workers' Safety Insurance Board (WSIB); (f) Employee Health Tax (EHT); (g) Canada Pension Plan (CPP); and (h) leave, vacation, overtime and any and all other payments which may be assessed against Seller under any statutory authority for performance of this Agreement.

By checking the appropriate option below, Seller confirms:

Seller's WSIB registrant employee number is \_\_\_\_\_

(OR)

A WSIB Clearance Certificate is attached declaring that it is registered with the WSIB, and has an account in good standing (Clearance Certificate is valid for 60 days from issuance).

In any event, the parties hereby expressly acknowledge and agree that by checking one of the above-noted options in this Article, Buyer bears no liability of any kind, to any party or non-party, for any of the subject-matter noted in the within Article, for which Seller is solely responsible at law. By way of example only, and without limiting the generality of the foregoing, Buyer shall not be liable for Seller-related WSIB payments to Seller's Personnel.

For greater certainty, Seller represents and warrants that it will obtain and maintain a valid WSIB Clearance Certificate at all material times prior to and during the work to be performed by Seller. Seller must meet its registration, reporting and payment obligations with the WSIB

to have its account in good standing with the WSIB. The parties expressly agree and understand that by issuing a WSIB Clearance Certificate, the WSIB waives its right to hold Buyer liable for unpaid premiums and other amounts that Seller owes the WSIB, for the validity period of the WSIB Clearance Certificate. Seller must proactively disclose to Buyer any failure or potential failure to meet its obligations under this Article, and expressly agrees that failure to meet its obligations under this Article, at any material time, may constitute grounds for termination of this Agreement (or any Purchase Order) by Buyer.

**3. Price:** (a) Unless otherwise specified, the prices established by this Agreement are firm fixed prices and will not exceed the prices stated on the Field Aviation Purchase Order. Should Seller be required to visually examine the Product for repair or overhaul services, then in such cases, Seller shall provide amended pricing to Field Aviation, which shall be thereafter reflected in a revised and final Field Aviation Purchase Order. Seller warrants that any unit prices charged herein do not exceed the unit prices charged by Seller to other customers in substantially similar transactions.

(b) Prices appearing on the Field Aviation Purchase Order include all packaging and crating required for shipping. For Canadian Sellers, the prices include all applicable federal or provincial taxes which shall be segregated and charged separately if applicable. Non-Canadian Sellers shall charge applicable sales tax in all cases where Buyer has not specified sales tax exemption numbers on the Field Aviation Purchase Order.

**4. Schedule and Delivery; Notice of Delay:** (a) Seller shall strictly adhere to all Field Aviation Purchase Order schedules.

(b) Seller shall notify Buyer in writing immediately of any actual or potential delay in the performance of this Agreement. Such notice shall include a revised delivery schedule which shall not be binding unless and until accepted in writing by Buyer. Buyer's acceptance of Goods or Services delivered after the original delivery date shall not constitute a waiver of Buyer's rights and remedies hereunder.

**5. New Materials; Packaging and Shipping; Counterfeit and Suspect Parts:** (a) All Goods to be delivered hereunder shall consist of materials which shall be free and clear of all liens, claims or encumbrances of every kind. (b) Seller shall prepare and package the Goods in accordance with applicable freight classification standards.

(c) Unless otherwise provided on the Field Aviation Purchase Order, delivery shall be made to Buyer's unloading dock at the location specified in the said Purchase Order. All goods are to be shipped freight collect to carrier information indicated on the Purchase Order, DAP Buyer's facility(ies) for a Canadian Seller and DDP Buyer's facility(ies) for an International Seller (INCOTERMS 2010), unless otherwise stated. Buyer shall carry its own insurance on all shipped Goods. Buyer reserves the right to reject C.O.D. shipments. Costs incurred by Buyer that result from Seller's failure to observe these shipping instructions will be billed to Seller. Each shipment under this Agreement shall be accompanied by (a) two (2) copies of the packing slips inside and outside the packaging and one signed certificate of conformance inside the packaging of each shipment which shall include the following information as applicable: Buyer's name and address, Purchase Order number and item number, Seller's and Buyer's part number, quantity of items delivered, drawing and or specification number and issue (where applicable), shelf life expiry date, serial number, lot/batch number, manufacturing date and certified Seller program stamp and authorized signature; (b) two (2) copies of the bill of lading, express courier receipt or waybill with the Purchase Order number and part number(s); (c) two (2) copies of the commercial invoice (one inside and one outside the package) in addition to the copy sent to Buyer's accounts payable department; (d) two (2) copies of the destination country's properly completed customs invoice (where applicable). Buyer shall notify Seller of any discrepancies detected on shipping documents. Until Seller performs corrective action as required by Buyer, the Goods in question will be held by Buyer with payment delayed. If Seller fails to take prompt corrective action, Buyer shall have the right to return the Goods to

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Seller at Seller's cost. Copies of Seller's export documentation and waybill number shall be faxed by Seller to fax# (905) 676-9583.

Unless approved in writing by the Buyer, Seller shall use only materials or parts from original equipment manufacturers (OEM), original component manufacturers (OCM) and/or OEM/OCM authorized dealers or distributors. For assemblies containing electronic components, Seller shall verify all documents that provide chain of custody to the OEM/OCM for each lot in a shipment and deliver such documents to Buyer upon Buyer's request. For components, Seller shall verify and provide all documents that provide chain of custody to the OEM/OCM.

Seller will not provide any Products which contain material known to be wholly or partially suspect or counterfeit. This includes any material labeled or marked in a misrepresentative manner. Seller will immediately notify Buyer if Seller becomes aware or suspects any parts furnished under the Agreement are counterfeit. If suspect or counterfeit parts are discovered in Products furnished by Seller under this Agreement, Seller shall promptly replace such parts with parts acceptable to Buyer. Seller is liable for any costs associated with the removal and replacement of any suspect or counterfeit parts it provides under the Agreement.

**6. Workplace Health and Safety:** Seller must comply with all applicable workplace health and safety laws and all safety instructions reasonably issued by Buyer from time to time. Seller must ensure that all tools, equipment and substances used in performing the work are in a safe and serviceable condition and used in accordance with their operating instructions. Seller must ensure that Seller's Personnel are adequately supervised at all times while performing the work. Seller must ensure that before Seller's Personnel perform the services, they receive adequate training in security, workplace health and safety, customer service and risk management. If Seller or Seller's Personnel engages in conduct on Buyer's facilities which, in the reasonable opinion of Buyer, could cause a serious risk to health or safety, Buyer may ask them to cease performing the work and/or leave Buyer's facilities immediately and they will agree to do so. They will not return to Buyer's facilities without Buyer's prior consent to do so. Seller will promptly notify Buyer of any workplace health and safety incidents that occur or of any involvement by workplace health and safety officials in connection with the work.

Without limiting the generality of the foregoing, all of Seller's Personnel must be "fit for duty" and not otherwise under the influence of any drugs, alcohol, or prescription or non-prescription substances while undertaking the work. Seller agrees to indemnify and hold harmless Buyer, Buyer's personnel and Buyer's customers from and against any and all claims, liability, losses, costs, damages and expenses (including without limitation, reasonable attorney fees and costs of settlement) of whatsoever cost and amount, based upon, or resulting from, any failure by Seller or Seller's Personnel to adhere to the requirements of this Article, and more generally, to Buyer's health and safety policy guidelines (as may be varied from time to time by Buyer at Buyer's sole and exclusive discretion).

**7. Personal Protective Equipment (PPE):** In addition to the obligations stipulated in Article 6 above, the work being done by Seller's Personnel may involve risks to their health and safety from time to time for which personal protective equipment (PPE) must be used or worn. Seller is responsible for providing suitable PPE to all Seller's Personnel, as well as training and information about how it must be used or worn, where it is stored, and how it is maintained. Seller must be satisfied that Seller's Personnel's PPE is suitable at all material times.

Seller's Personnel must take all reasonable care at all material times when dealing with risks associated with work to be performed. Seller's Personnel must use or wear PPE when appropriate, including (but not limited to) wearing both safety glasses and safety shoes in designated areas at Buyer's facilities. At all times, Seller's Personnel must follow Buyer's health and safety policies and use safe and appropriate practices if work is to be performed at Buyer's facilities.

For greater certainty, at all material times, it is Seller's legal obligation to ensure that PPE is worn and maintained by all of Seller's Personnel at all material times, and complies with any and all provisions of the

Canada Occupational Health and Safety Regulations (SOR/86-304), the Canada Labour Code, or any regulations made pursuant to those statutes, as well as any and all other applicable laws pertaining to the health and safety of Seller's Personnel in performing the work.

The parties hereby expressly understand and agree that Buyer shall bear no liability whatsoever for any failure on the part of Seller or Seller's Personnel to comply with this Article.

**8. Training:** It is Seller's sole and exclusive responsibility, at its own time and expense, to ensure that Seller's Personnel, in performing the work, have been provided with any and all applicable training required by law to perform the work, at all material times. Upon request by Buyer, Seller shall provide to Buyer any and all information pertaining to training that has been or will be provided to Seller's Personnel for the purpose of completion of the work.

**9. Hazardous Materials:** It is Seller's obligation to identify any hazardous material(s) to be delivered, as defined under applicable federal and provincial Workplace Hazardous Materials Information System (WHMIS) legislation. The hazardous material(s) shall be properly identified and include any applicable identification number. This information shall also be included on any Material Safety Data Sheets (MSDS) to be submitted. Seller shall also meet the requirements for labels and safety data sheets (SDS) for hazardous products sold, distributed, or imported into Canada, as stipulated in applicable federal and provincial WHMIS legislation. Without limiting the generality of the foregoing, Seller must also:

- (a) Provide to Seller's Personnel all require PPE relating to hazardous material(s) (as defined in applicable federal and provincial WHMIS legislation) being used in the course of performance of the work, as provided in relevant MSDS specifications;
- (b) Provide copies to Seller's Personnel, as well as to Buyer, of all MSDS prior to the commencement of work. Seller hereby represents and warrants that all MSDS have been reviewed prior to provision thereof to Buyer to ensure that no designated substances are brought on-site to Buyer's facilities, as defined under the Designated Substances Regulation (Ontario Regulation 490/09) and in accordance with American Conference of Governmental Industrial Hygienists (ACGIH) guidelines and best practices, as they may be varied or updated from time to time;
- (c) Ensure that occupational exposure limits are not exceeded, as generally and specifically defined in the Canada Occupational Health and Safety Regulations (SOR/86-304) and any and all other applicable provincial and federal legislation; and
- (d) Ensure that any hazardous material(s) as defined in applicable federal and provincial WHMIS legislation, and/or any other hazardous waste generated during work operations, are disposed of in accordance with applicable regulations made pursuant to the Canadian Environmental Protection Act, 1999, including (but not limited to), as applicable, the Export and Import of Hazardous Wastes Regulations (EIHWR), Polychlorinated Biphenyls (PCB) Waste Export Regulations, and the Interprovincial Movement of Hazardous Waste Regulations, and any and all other applicable legislation.

In addition, it is Seller's ongoing obligation to identify, evaluate and mitigate any and all such hazardous materials in the course of performance of the work. Without limiting the generality of the foregoing, Seller shall also comply, at all material times, with any and all applicable provincial and federal WHMIS legislation, including (but not limited to) the Occupational Health and Safety Act and the WHMIS Regulation, Ontario Regulation 644/88.

**10. Inspection and Acceptance:** (a) Transfer of title of Goods from Seller to Buyer shall occur after delivery by Seller to the destination point (DAP Buyer's facility(ies) for a Canadian Sellers and DDP Buyer's facility(ies) for an International Sellers) and final acceptance by Buyer.

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(b) Buyer's final acceptance of Goods or Services is subject to Buyer's final inspection within ninety (90) days after receipt at Buyer's facility(ies) or such other place as may be designated by Buyer, notwithstanding any payment or prior test or inspection. Seller shall provide all required material certifications.

(c) Seller and its suppliers shall establish and maintain a quality control and inspection program (where applicable) and furthermore Seller shall deliver the quality certification documents required and specified in the Field Aviation Purchase Order (such as but not limited to ISO 9001:2008 and/or AS9100 certification). Subject to applicable national security regulations, Buyer and Buyer's representatives shall have the right of access, on a non-interference basis, to any area of Seller's or Seller's supply chain sub-tier premises where any part of the work is being performed. Seller shall flow this requirement down to its sub-tier supply chain suppliers as a condition of this Agreement. Seller shall, without additional costs to Buyer, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of Buyer and Buyer's representatives in the performance of their duties.

(d) Seller shall keep and maintain inspection, test and related records for a period of ten (10) years after delivery of Goods or Services, which records shall be available to Buyer or Buyer's representative upon request. Seller shall allow copies to be made and shall furnish all information required by Buyer or Buyer's representative concerning the performance of this Agreement.

(e) Without limiting the generality of the foregoing, Seller agrees that, if a special production run is made, the first item produced is subject to first article acceptance prior to further fabrication. If the first item submitted fails to meet the inspection acceptance requirements, a new first item will be submitted for approval. This procedure will be continued until an acceptance first article has been approved. Acceptance of the first article shall not be considered acceptance of subsequent part production.

**11. Rejection and Supplier Notice of Non-Conformance**

**and/or Changes:** (a) If Seller delivers non-conforming Goods or Services, Buyer may, at its option and Seller's expense, and within ninety (90) days: (i) return the Goods for refund or credit; (ii) require Seller to promptly correct or replace the Goods or Services; (iii) correct the non-conformance; (iv) require Seller to make delivery to Buyer as is with a reduction in the price as may be mutually agreed; (v) obtain conforming Goods or Services from another source; or (vi) terminate this Agreement, in whole or in part, for default. Buyer shall specify the reason for any return or rejection of non-conforming Goods or Services and/or shall describe the action taken. Seller shall be liable for any increase in costs, including procurement costs, attributable to Buyer's rejection of the nonconforming Goods or Services. Repaired items shall be tagged and conveyed with appropriate service documentation, meeting the repair criteria consistent with the quality requirements set out by Buyer in the Field Aviation Purchase Order. Seller shall test the exchanged or repaired items to their original specifications. Seller shall ship the product within ten (10) working days from receipt at Seller's facility(ies).

(b) In the event that Seller identifies a non-conformance in its Products and/or Services, Seller shall provide immediate notification to Buyer, in writing, of such non-conformance, and no later than fifteen (15) days after issuance of such non-conformance notice, Seller shall confirm to Buyer the disposition and all corrective actions to address the non-conformance for the specific Products and/or Services.

(c) In addition, Seller shall immediately notify Buyer of any changes within Seller's organization including but not limited to management changes, industry approvals, facilities and/or any changes to Seller's Products and/or Services, including but not limited to Product specifications, processes and supply chain partners.

(d) Seller shall flow down the requirements set forth in this Article 11 to all organizations, vendors and suppliers within its supply chain.

**12. Tooling:** (a) Notwithstanding any other term of this Agreement, unless otherwise expressly specified in the Purchase Order, any and all tooling or equipment to be used by Seller or Seller's

Personnel in undertaking the work shall be Seller-owned and/or Seller-operated tooling or equipment. For greater certainty, Seller shall not use or operate any Buyer-owned and/or Buyer-operated tooling or equipment whatsoever in the performance of Seller's work, unless specifically further agreed to by means of a further and separate indemnification agreement, to be negotiated and executed between the parties.

(b) Title to any tooling or equipment provided to Seller by Buyer or paid for by Buyer shall remain with Buyer. All Buyer-owned tooling, including any jugs, dies, fixtures, molds, patterns, special gauges, special test equipment or other items shall be stamped by Seller and shall be stored separately when not in use. All parts made from any Buyer tooling shall be supplied only to Buyer.

(c) Title to any tooling or equipment provided by Seller in order to complete the Services at Buyer's facility(ies) shall remain with Seller. All Seller-owned tooling, including any jugs, dies, fixtures, molds, patterns, special gauges, special test equipment or other items shall be stamped by Seller, and Seller shall be responsible to ensure that all such Seller-owned tooling or equipment shall remain in operational condition and stored and maintained in order to ensure the safety of Buyer's and Seller's Personnel and Buyer's facility(ies).

(d) Buyer may at any time enter Seller's facility(ies) to inspect or remove Buyer owned tooling or equipment.

(e) Seller shall protect and maintain all tooling and equipment owned by Buyer which is provided to Seller except for normal wear and tear.

(f) At all material times, Seller shall provide to Buyer, upon request by Buyer, a full and complete list of all materials and tools brought to Buyer's facilities by Seller (whether used to perform the work or not).

(g) For greater certainty, notwithstanding any other term of this Agreement, the parties expressly agree that only Seller (and not Buyer) is liable for any damages, of whatever nature, resulting from Seller (or Seller's Personnel) failure to meet the obligations set forth in this Article.

**13. Invoices:**

(a) In addition to being included with each shipment, invoices, in duplicate, shall be mailed to the attention of Buyer's Accounts Payable Department when Goods are shipped, but the time for payment shall not commence until Buyer's actual or scheduled receipt, whichever is later, of Goods at their destination or upon satisfactory completion of Services.

(b) All invoices need to include a purchase order number, the part number, the description of goods, the unit price, the quantity of goods, the extended price, packing slip number, number of packages, articles or containers shipped.

(c) Buyer shall promptly pay Seller the amount due within sixty (60) days, except if identified elsewhere in the Agreement, unless the invoiced amount is in dispute. Buyer may withhold payment for shortages and/or non-conforming Goods or Services.

**14. Changes:**

(a) Buyer may from time to time make changes regarding and without limitation: (i) technical requirements; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) quantities, delivery schedules or both.

(b) Should any such change cause an increase in the price or a decrease in the time required for its performance, Seller shall promptly notify Buyer thereof and assert its claim for equitable adjustment within thirty (30) days after the change is ordered.

However, nothing in this Article shall excuse Seller from proceeding immediately with the directed change(s). Changes shall not be binding upon Buyer except when specifically confirmed in a written Field Aviation Purchase Order or other amendment document.

**15. Force Majeure:** The following events, inclusively, shall constitute force majeure under this Agreement: acts of God or of a public enemy; acts of Government; fires; floods; epidemics; quarantine restrictions; strikes; or freight embargoes.

In each case, the failure to perform must be entirely beyond the control and without the fault or negligence of Seller. Seller shall give Buyer immediate notice of any event that Seller claims is a force majeure condition which would prevent Seller from performing its obligations

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hereunder, and of the cessation of the condition. Seller's notice under this Article shall include Seller's good faith estimate of the likely duration of the force majeure condition.

Notwithstanding the foregoing, Buyer shall have the right to cancel this Agreement or the corresponding Purchase Order, in whole or in part, if Seller is unable or fails to complete performance in accordance with the original delivery date or in such later date as may be mutually agreed, in writing, by both parties. Any such cancellation shall be without cost to Buyer.

**16. Termination for Convenience:** (a) Buyer may, by notice in writing, direct Seller to terminate work under this Agreement, in whole or in part, at any time, and such termination shall not constitute default. In such event, Buyer shall have all rights and obligations accruing to it either at law or in equity, including Buyer's rights to title and possession of the Goods, Services and materials paid for. Buyer may take immediate possession of all work so performed upon notice of termination.

(b) Seller shall immediately stop work and limit costs incurred on the terminated portion of the work.

(c) If such termination is for the convenience of Buyer, then Buyer, after deducting any amount(s) previously paid, shall reimburse Seller for the actual, reasonable, substantiated and allowable costs (but not profit) for all work performed or in progress and accepted by Buyer, however, payment to Seller, taken together with any payments already made or owing to Seller under the Purchase Order, shall, in no event, exceed the total amount payable under the Purchase Order.

**17. Termination for Default:** (a) Buyer may at all times and upon written notice to that effect to Seller, terminate the Purchase Order, in whole or in part if: (i) Seller is in default of carrying out any of the terms and conditions of the Purchase Order; (ii) if Seller is insolvent, bankrupt, or proceedings have been made by, or against, Seller pursuant to the Bankruptcy Act or similar statute; or (iii) if an order is made or decision is taken for the winding up or liquidation of Seller. Seller shall not be entitled to payment for work not completed at the time of the notice sent pursuant to this Article.

(b) If Buyer terminates a Purchase Order pursuant to the provisions of this Article, in addition to any other rights or remedies provided to Buyer under this Agreement, the Purchase Order or at law, Buyer may procure, upon terms and in such manner as Buyer deems appropriate, supplies or services similar to those so terminated, and Seller shall be responsible for any excess costs for these supplies or services.

(c) Seller hereby grants to Buyer title to that portion of technology and tooling pertaining to the Goods which does not already belong to Buyer. In the event that Seller does not have title to such portion of technology and tooling, Seller shall automatically grant to Buyer a perpetual, unconditional and royalty-free license, with a right to sub-license or transfer, to exploit, for internal purposes anywhere in the world to such portion of technology and tooling which does not already belong to Buyer. It is agreed that Seller shall carry out all necessary actions related to such grant of title or license as requested by Buyer.

(d) Buyer may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer, any partially completed goods and raw material, parts, tools, dies, jigs, fixtures, plans, drawings, services, information and Agreement rights (collectively "Materials") as Seller has produced or acquired for the performance of this Agreement. Seller further agrees to protect and preserve property in the possession of Seller in which Buyer has an interest. Payment for completed Goods or Services delivered to and accepted by Buyer shall be at the Agreement price. Payment for unfinished Goods or Services, which have been delivered to and accepted by Buyer and for the protection and preservation of property, shall be at a price determined in the same manner as provided in the Termination for Convenience provision in Article 16 of this Agreement. Buyer may withhold from Seller moneys otherwise due Seller for completed Goods, Services and/or Materials in such amounts as Buyer determines necessary to protect Buyer against loss due to outstanding liens or claims against said Goods, Services and Materials.

(e) Notwithstanding any other Article or provision of this Agreement, in no event shall Seller have any claim for damages whether incidental, indirect, consequential, punitive or otherwise, or for any compensation, loss of profit, allowance or otherwise, by reason directly or indirectly, arising out of any action taken or notice given by Buyer, under or pursuant to the provisions of this Article, except and to the extent so provided for in this Article.

**18. Compliance with Law:** This Agreement, and any Purchase Order or disputes arising from this Agreement, shall be governed by and interpreted in accordance with the internal laws of the Province of Ontario, Canada. The parties hereby irrevocably agree to submit any action, suit or proceeding arising out of, or in connection with this Purchase Order to the appropriate courts within the city of Toronto, Province of Ontario, Canada. The parties hereto expressly exclude the application of the United Nation Convention of the Sale of Goods to any Purchase Order herein.

**19. Intellectual Property:** (a) For the purposes of this Agreement, the term "Intellectual Property" shall mean patented and unpatented inventions, mask works, copyrighted works, trade secrets, know-how and proprietary information of either party (hereinafter "Background Intellectual Property"). It is mutually understood and agreed that neither party shall acquire, directly or by implication, any rights in any Background Intellectual Property of the other party owned, controlled, acquired, developed, authored, conceived or reduced to practice prior to or outside the performance of this Agreement, including but not limited to, inventions described and claimed in applications for U.S. Letters Patent filed prior to the date of this Agreement, except as expressly provided herein or in any resulting subcontract between the parties. Such Background Intellectual Property pertaining to each party is proprietary to such party.

(b) This Agreement does not confer or grant, in any manner whatsoever, any license or right under any patent, trademark, trade secret, maskwork, copyright or other intellectual property right held by either party unless specifically set forth in the body of the Purchase Order.

(c) Any invention, discovery, proprietary information, maskwork, software, system, data, or report resulting from the work performed under this Agreement (hereafter "Foreground Intellectual Property") shall be the sole property of the Buyer. All patents, copyrights, trade secrets, trademarks, maskworks or other Foreground Intellectual Property resulting from work under this Agreement shall be the sole property of Buyer ("Proprietary Data").

**20. Proprietary Information and Rights:** (a) Seller shall sign a mutually acceptable non-disclosure agreement with Buyer at any time upon Buyer's request.

(b) Seller shall not, during the performance of, or before or after completion of, the work outlined in this Purchase Order, divulge to anyone other than Buyer's personnel having a need to know nor, except in the execution of this Purchase Order, make any use of any information or knowledge relating to: (i) this Purchase Order; (ii) Buyer's business or that of its affiliates or suppliers, which shall have been obtained before, during or after the term of this Purchase Order, and which is not generally known; (iii) any plans, drawings, specifications, technical, financial information or other information or data, patterns and tools supplied by Buyer and any information derived there from and methods and processes conceived or developed or first actually reduced to practice before, during or after the term of this Purchase Order; or (iv) any Proprietary Data or any other intellectual property right resulting from this Purchase Order. The existence of any such copyright, trademark, patent or any other intellectual property right shall be promptly and fully disclosed to Buyer and shall remain confidential and the property of Buyer and shall be returned to Buyer upon its request. Seller agrees to use at least the same degree of care in maintaining confidentiality of such information or knowledge as it would normally use to protect its own proprietary or confidential information.

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(c) Any modification, improvement, addition or other made by Seller to Proprietary Data as agreed to or requested by Buyer shall be considered as Proprietary Data and title thereto shall vest in Buyer.

(d) Buyer shall have title to any portion of the work prepared and developed by Seller, either alone or jointly with Buyer, which Buyer has paid for under this Purchase Order.

**21. Patent Infringement:** (a) Seller shall fully protect, indemnify and hold harmless Buyer and its customers from and against any and all claims, liability, losses, costs, damages and expenses (including without limitation, reasonable attorney fees and costs of settlement) of whatsoever cost and amount, based upon, or resulting from, infringement by Buyer, or its customers, or by Seller, of any patent, copyright, trademark or other intellectual property right arising out of the design, manufacture, sales, installation, use, service, maintenance, operation or enjoyment of the Goods or any feature, part, accessory or equipment thereof.

(b) In addition to and without restricting Seller's obligation pursuant to this Article, in the event of the infringement of an intellectual property right, or if the use, lease, or sale of the Goods and/or Services are enjoined, Seller shall, at its option and expense: (i) procure for Buyer and its customers the right under such intellectual property right to use the Goods; (ii) replace the Goods with goods of similar nature or quality; or (iii) modify the Goods to make same non-infringing.

(c) Seller shall not use any of Buyer's trade name or trademarks without first obtaining Buyer's prior written approval.

**22. Warranty:** Seller warrants:

(a) That all Goods delivered will be merchantable, suitable for the intended purposes and free from defects in design, material and workmanship for a period of one (1) year or Seller's standard warranty period (whichever is greater) following delivery and acceptance by Buyer and application to the intended use. Where incorporated into a product of Buyer to be delivered to its customer, the above warranty shall run from the date of delivery to the customer.

(b) The foregoing express warranties are in addition to any other warranty customarily made by Seller of its Goods or Services or implied by law. All warranties shall survive delivery of the Goods or performance of the Services and be fully enforceable thereafter. No modification or other change of this warranty shall be valid unless evidenced by Buyer's written agreement.

In addition to the foregoing warranties, both Buyer and Seller agree to remind their personnel of their ongoing understanding and awareness of: (a) their contribution to product or service conformity; (b) their contribution to product safety; and (c) the importance of ethical behavior.

**23. Extension to Buyer's Customers:** All warranties furnished pursuant to this Agreement extend not only to Buyer but also to Buyer's customers, successors and any third party ultimately using any Goods or Services furnished hereunder.

**24. Safety:** (a) Without in any way limiting or varying the obligations set out in Article 2 of this Agreement, Seller warrants that at all times it shall remain in good standing with, and promptly pay when due, all amounts required by any board or authority having jurisdiction over the work or Seller, with respect to health and safety matters, workmen's compensation and other employee related matters, and shall, upon Buyer's request, provide a certificate of good standing from such board or authority. Failure by Seller to make its payments or to provide any certificate of good standing or equivalent document shall in addition to any other rights or remedies that Buyer may have in the circumstances, entitle Buyer to withhold from any payment due to Buyer such amounts as Seller may consider necessary to protect itself from any liability real or contingent which Buyer may have because of Seller's default or failure to observe the provisions of this Article.

(b) The employees of Seller and Buyer shall remain employees of their respective companies for all purposes during the carrying out of activities under the Purchase Order. Each party shall carry workmen's compensation and employer's liability insurance with respect to its

respective employees only.

(c) Each party shall be responsible to the other party and to third parties for losses or damages that it causes in connection with the performance of this Purchase Order.

**25. Indemnification:** Seller shall indemnify, hold harmless, and at Buyer's request, defend Buyer, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses and expenses of any kind whatsoever, including legal fees and collection costs, arising out of or in any way connected with the Goods or Services provided under this Agreement, including, without limitation: (i) the breach of any warranty contained herein; (ii) any claim based on the death of or bodily injury to any person, destruction or damage to or loss of property, or contamination of the environment and any associated clean-up costs; and (iii) any claim based on the negligence, omissions or willful misconduct of Seller or any of Seller's Personnel (e.g. agents, subcontractors, employees) or anyone acting on behalf of Seller.

**26. Insurance:** Without prejudice to its obligation to indemnify Buyer under this Agreement, Seller shall, at its own cost, throughout the performance of this Agreement (or any related or ancillary agreement made pursuant thereto), effect and maintain Comprehensive Liability Insurance in relation to the Goods and Services provided under this Agreement with a limit (combined single limit per occurrence and in the annual aggregate) acceptable to Buyer, at Buyer's sole and exclusive discretion.

Upon execution and during the performance of this Agreement, Seller shall furnish Buyer with current certificates of insurance in a form acceptable to Buyer, evidencing that the insurance coverage required to be maintained by Seller in respect of Seller's obligations under this Agreement (or any related or ancillary agreement made pursuant thereto) is in full force and effect. The certificates must reflect that insurers are guaranteeing that the policies are not to be cancelled or benefits reduced or altered without a thirty (30) day prior notice delivered by registered mail to Buyer. In the event that Seller fails to provide or maintain insurance as required by the Agreement, then Buyer shall have the right to provide and maintain such insurance and give evidence thereof to Seller. Seller shall pay the cost thereof to Buyer. Seller shall give prompt written notice to Buyer of the occurrence of any damage or loss described above whether or not covered by insurance.

In addition to the foregoing, for greater certainty, throughout the period of this Agreement, Seller shall also maintain in full force and effect with an insurer(s) satisfactory to Buyer, and in an amount satisfactory to Buyer (such determination being at the sole and exclusive discretion of Buyer) (a) workers' compensation/employers' liability insurance subject to the laws of the province wherein this Agreement is being performed (if applicable, such coverage shall contain a waiver of subrogation in favor of Buyer), (b) Comprehensive Automobile Liability Insurance covering the ownership, maintenance or use of all owned, non-owned and hired vehicles used in the performance of the Agreement, including loading and unloading, and coverage for bodily injury and property damage liability, and (c) Property All Risks Insurance covering for damage to all property for the full replacement value thereof which is in the possession or under the effective care, custody and control of Seller or Seller's suppliers and covering for damages caused by Seller's tooling and equipment. The insurance policies required in this Article shall be primary without contribution from Buyer.

**27. Release of Information:** Seller shall not publish any information developed under this Agreement, nor disclose, confirm, or deny any details about the existence or subject matter of this Agreement, or use Buyer's name in connection with Seller's sales promotion or publicity without prior written approval of Buyer.

**28. Export Regulations - Controlled Goods:** (a) if any Goods delivered or disclosed to Buyer under this Agreement are subject to any Canadian export law or regulation, the Export Administration Regulations administered by the United States Department of

**FIELD AVIATION GENERAL TERMS AND CONDITIONS FOR VENDORS OR  
SUBCONTRACTORS PERFORMING WORK AT THE CALGARY OR MISSISSAUGA FACILITIES  
(FACI-GTC-005)**



Commerce, or any other export requirement or law of any country (collectively "Export Regulations"), then Buyer shall not export or re-export such Goods except in compliance with such Export Requirements.

(b) Seller shall provide to Buyer a complete list of all controlled or dual use parts or components that Buyer will acquire and incorporate in the Goods, as per the requirements of any governmental agency having authority over such parts or components including, without limitation, the U.S. Department of Commerce, U.S. Department of State, U.S. Department of Defence, Public Works and Government Services of Canada and Global Affairs Canada. To this end, Seller shall complete and update the list with respect to any items that are identified as being controlled goods in accordance with International Traffic in Arms Regulations (ITAR) and Export Control Classification Number (ECCN).

(c) Buyer is a registered company under the Canadian Controlled Goods Program (CGP), and unless Seller can provide documentation to substantiate independent CGP clearance approved by the Controlled Goods Directorate, then Seller hereby acknowledges and understands that it is not permitted to examine, possess or transfer controlled goods during the term of any follow-on, related or ancillary agreement to this Agreement (as applicable). Seller's Personnel shall also comply with the internal security and labor safety arrangements and working rules (including CGP-related rules and arrangements) in the facilities of Buyer, including but not limited to visitor application(s) for security assessment and exemption from registration under the CGP Program, as well as escorting requirements at Buyer's facilities, as applicable.

**29. Assignment and Subcontracting:** Seller shall not assign or subcontract this Purchase Order without Buyer's written consent other than the subcontracting necessary for obtaining raw materials, parts, or processes for which Seller is not equipped and which Seller does not make, or which are portions of work normally subcontracted in the execution of similar contracts.

**30. Order of Precedence:** In the event of a conflict between these General Terms and Conditions and other portions of the Agreement, the order of precedence shall be: (a) any typed provisions on the face of the Field Aviation Purchase Order specifically modifying the terms of this Agreement; (b) these General Terms and Conditions; and (c) any other provisions set forth in the Field Aviation Purchase Orders, including any terms and conditions stated or referenced therein.

**31. Survival:** All of the provisions of this Agreement shall survive the termination (whether for convenience or default), suspension or completion of this Agreement unless they are clearly intended to apply only during the term of this Agreement.

**32. Audit Rights:** Buyer reserves the right to audit Seller's records to assure compliance with the terms of this Agreement. Seller shall make available all data reasonably requested by Buyer.

**33. Entire Agreement.** This Agreement and the associated Field Aviation Purchase Order constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto.