

Terms and Conditions of Purchase Order



The terms and conditions set forth in this document constitute the only terms and conditions applicable to the purchase of Goods or Services by Ontic Engineering & Manufacturing, Inc. and its Affiliates. These Terms and Conditions of Purchase together with the attachments appended hereto will comprise the entire agreement ("**Agreement**") for these Goods or Services.

1. DEFINITIONS

The following terms shall have the meanings:

- (a) "**Affiliate**" means any entity controlling, controlled by, or under common control of a party to this Order.
- (b) "**Buyer**" means Ontic Engineering & Manufacturing, Inc. or its Affiliate identified on the face of the Order which is contracting with Seller for Goods or Services identified on the face of the Order.
- (c) "**Seller**" means the party contracting to supply the Good(s) or Services to Buyer.
- (d) "**Goods**" means the product supplied by Seller under this Order, including without limitations all articles, supplies, components, raw materials, and intermediate assemblies thereof.
- (e) "**Party**," "**Parties**" means Buyer and Seller individually a "**Party**" and collectively "**Parties**".
- (f) "**Order**" shall mean the Agreement, Order, Subcontract, or Contract, these Purchasing Terms and Conditions, and any special conditions appended hereto or documents incorporated herein.
- (g) "**Services**" means the services Seller provides under this Order.

2. TERMS AND CONDITIONS AND ORDER OF PRECEDENCE

These terms shall apply to all POs issued by Buyer. Either Seller's written acknowledgement or Seller's full or partial performance under the Order, whichever occurs first, will constitute acceptance of all terms and conditions contained herein. Any acceptance of the Order is limited to acceptance of the express terms of the offer set forth in the Order. Any proposal for additional or different terms or any attempt by Seller to vary any of the terms of this offer in Seller's acceptance or acknowledgement is hereby objected to and rejected. If Buyer's Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms set forth in this document.

Notwithstanding the foregoing, the order of precedence: In the event of a conflict between these Terms and Conditions and the terms of any Order or other applicable materials, except as otherwise explicitly agreed in writing the order of precedence will be (i) in the case of any Order ultimately relating to a US Government contract the FAR and DFARS, (ii) the additional terms of any purchase order (iii) these Terms and Conditions (iv) project specifications (v) project drawings

3. PAYMENT TERMS

- (a) **Price; Payment.** Seller will sell the Goods and/or perform the Services for the prices and fees specified on the face of the Order. Such prices and fees are fixed.
- (b) **Standard Payment Terms.** Unless otherwise agreed to between Buyer and Seller, Seller shall submit an invoice to Buyer immediately after each shipment of Goods is made or after any Service is provided. Seller shall issue a separate invoice referring to each Order by Buyer. Each invoice shall describe the Goods delivered and/or the Services

provided. Unless otherwise provided herein, Seller shall submit invoices in duplicate. Buyer's standard terms of settlement shall be payment of the invoiced amount within forty-five (45) of Buyer's receipt of a correct Invoice. Settlement and invoicing should be paperless, and in a format acceptable to Buyer. To establish electronic funds transfer for U.S. Sellers and wire transfer for non-U.S. Sellers, Seller shall provide banking information, on Seller's official letterhead. Payment shall be deemed to have been made as of the date of the electronic funds or wire transfer initiation. If Buyer does not make payment on time, Seller shall send Buyer written notice of such non-payment and Buyer shall have ten (10) days from receipt of such written notice to remedy the non-payment.

- (c) **Taxes.** Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, VAT and similar fees imposed by any government, all of which shall be listed separately on the invoice. If Buyer, for any reason, pays any taxes for which Seller is responsible, Seller shall promptly reimburse Buyer for such payment.

- (d) **Setoff.** Buyer shall be entitled to set off any amount owing from Seller to Buyer or to any of Buyer's Affiliates against any amount payable under this Agreement.

- (e) **Currency.** Unless otherwise specified on the face of the Order, all prices and fees shall be stated in United States Dollars.

4. DELIVERY OF GOODS or SERVICES

- (a) **Delivery.** Unless otherwise specified on the face of the Order, the applicable shipping and delivery Incoterms will be in accordance with Article 4. (b). Title to and risk of loss of or damage to the Goods shall pass to Buyer after receipt, inspection and acceptance in accordance with Section 5.

- (b) Seller will deliver Goods FCA (Buyer's facility) INCOTERMS 2010 if Seller is located within the continental US and DDP (Buyer's facility) INCOTERMS 2010 if Seller is located outside the continental US.

- (c) Time is of the essence with respect to delivery. Seller must immediately notify Buyer, in writing, of any actual or potential delay of the Order.

- (d) If Seller fails to deliver the Goods and/or Services by the delivery date set forth on the face of this Order in the quantities or of the nature specified on the face of this Order or in a statement of work attached to this Order, Buyer may immediately terminate this Order, either in whole or in part, and may refuse to accept delivery of any Goods and/or Service specified in this Order or any attached statement of work and to return, at Seller's expense, all shipped Goods to Seller.

- (e) **Anticipation of Delivery Schedule.** Unless otherwise agreed to in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet firm delivery schedules and those planned schedules that are within lead time. Unless specifically agreed to, in

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writing, Seller shall not deliver goods prior to the Buyer's requirement date.

5. PACKAGING, INSPECTION, ACCEPTANCE

(a) Seller shall, at all times, comply with Buyer's written shipping instructions. Seller also shall be responsible for the proper packaging of the Goods supplied in accordance with the instructions in the Order, or if none are provided, Goods shall be packaged and identified in accordance with Aerospace Industry Standards (ASTM-D-3951- 98 and MIL-STD-2073) to allow for safe delivery of the shipment to its destination with no damage to the contents. The packaging shall be capable of multiple handling and storage periods at a minimum of one year in enclosed facilities without damage to the product. All wood boxes, wood skids, wood filler assemblies, wood dunnage assemblies, and wood pallets must be compliant to International Standards For Phytosanitary Measures No. 15 (ISPM-15). Buyer reserves the right to reject, at no cost to Buyer, any Goods damaged due to improper packing.

(b) A complete packing list shall be enclosed with all shipments. Seller shall mark containers or packages with necessary lifting, loading, and shipping information, including Buyer's Order, or contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Order number. All Goods shall strictly comply with all applicable specifications and shall be subject to inspection and test by Buyer and its customer at all times and places. If any inspection or test is made on the premises of Seller or its vendor, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

(c) All Goods shall be subject to inspection and acceptance by Buyer regardless of whether Buyer has pre-paid for the Goods or if the Goods have been supplied according to any Incoterms. Upon inspection, any Goods which are found to be damaged, defective, non-merchantable, of insufficient quality, missing or accompanied by inaccurate certificates, or otherwise unacceptable shall be considered to be "**Nonconforming Goods**". Buyer may, at its option and without limiting any of Buyer's other rights hereunder: (a) reject and return the Nonconforming Goods, in whole or in part, at Seller's sole risk and expense, for an immediate credit or refund from Seller; (b) reject and return the Nonconforming Goods to Seller, at Seller's sole risk and expense, for immediate repair or replacement; (c) accept the Nonconforming Goods at an equitable price reduction; (d) replace or correct the Nonconforming Goods and charge Seller all expenses incurred in connection with such replacement or correction; or (e) terminate all or part of this Order. Seller shall bear all risk of loss or damage to Nonconforming Goods, including without limitation Seller's labor and material costs, overhead and general and administrative

Costs reasonably repaired Components shall be at the sole discretion of Buyer.

(d) Payment for Goods and/or Services delivered hereunder shall not constitute acceptance thereof, and all payments against documents shall be made with a reservation of rights by Buyer for defects in Goods and/or Services, including, without limitation, defects apparent on the face thereof.

(e) ANY GOODS REJECTED SHALL BE CONSIDERED AS 'NOT DELIVERED'.

(f) Buyer's approval of Seller drawings, procedures, and or manuals, furnished by Seller shall in no way change Seller's obligation to deliver Goods in accordance with the requirements and specifications referenced in the Order, applicable laws and regulations, including, but not limited to FAA regulations.

(g) Buyer's failure to inspect the Goods shall neither relieve Seller from responsibility for such Goods which are not in accordance with the Order requirements and specification nor impose liabilities on Buyer therefor. The inspection or test of any Goods by Buyer shall not relieve Seller from any responsibility regarding defects or other failures to meet Order requirements and specifications, which may be discovered subsequently.

6. CHANGES

(a) No amendment or modification to this Order shall be binding upon Buyer unless agreed upon in writing and signed by an authorized representative of Buyer.

(b) In the event Seller becomes aware of any ambiguity between any of the documents constituting this Order, Seller must consult Buyer for written resolution before proceeding with the Order.

(c) At any time, Buyer may request changes in the description, drawings, specifications, service requirements, quantity, time or place of delivery, and/ or shipping and packing instructions relating to the Goods and/or Services by sending a written request to Seller. Seller shall have five (5) days from the date of receipt of such request to notify Buyer in writing whether: (i) it accepts such request without modification to delivery time and/or price of Goods and/or Services; or (ii) Seller accepts such request with a modification to delivery time and/or price of Goods and/or Services; or (iii) Seller does not accept such request.

(d) If Seller advises Buyer that it accepts the modification in delivery time and/or price of Goods or Services, Seller and Buyer shall agree to an equitable adjustment in the delivery time and/or price, as applicable. In the event Seller and Buyer are unable to agree to such equitable adjustment, then Buyer may elect to either proceed with the Order un-amended or terminate the Order.

(e) If Seller advises Buyer that it does not accept any or all of the requested changes within the five (5) day period described in clause (c), then Buyer may terminate this Order. If Buyer does not terminate this Order, then this Order shall remain in full force and effect, un-amended. If Buyer does not receive written notification from Seller within such five (5) day period, Seller shall be deemed to have accepted the request with no modification to delivery time and/or price of Goods and/or Service.

7. STOP ORDER

Buyer may at any time and by written Order to Seller require Seller to stop all, or any part of, the Goods or Services being provided hereunder for a period not to exceed ninety (90) days ("**Stop Order**"). Upon receipt of the Stop Order, Seller will immediately comply with the terms of the Stop Order and will take all reasonable steps to minimize the incurrence of costs allocable to the Goods covered by the Stop Order. Within the ninety-day period, Buyer will either (i) cancel the Stop

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Order; or (ii) terminate the Goods covered as provided in the Termination provisions of this Order. If the Stop Order is canceled or the ninety-day period expires, Seller shall resume Goods and an equitable adjustment as to cost and/or schedule shall be made in accordance with the Changes provision.

8. RECORDS

Unless a longer period is specified in this Order or by law or regulation, Seller shall retain all records related to this Order for seven (7) years from the date of final payment received by Seller. Records related to this Order include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost, Seller shall timely provide access to such records to the US Government and/or Buyer upon request.

9. QUALITY STANDARDS

(a) Seller shall implement and maintain a quality program acceptable to Buyer for the Goods delivered under this Order. When requested, Seller shall submit to Buyer, for Buyer's approval, the quality program documentation, including Seller's procedures, instructions, practices, processes and other documents. Seller will have the continuing obligation to immediately notify Buyer of a change or deviation from Seller's approved quality program and to notify Buyer of Goods delivered during such change or deviation.

(b) Seller agrees to use only experienced, trained and qualified employees in the performance of its obligations under this Agreement and all Services performed must be of first class quality and workmanship.

(c) Buyer, its customers and its higher-level contractors, including government agencies, will have the right to audit and/or inspect Seller's and its suppliers' manufacturing facilities, processes, inspection systems, quality assurance systems, data, and equipment as may be related to the Goods furnished under this Order.

(d) Upon request, Seller shall, where applicable, submit test specimens (e.g., production method, number, storage conditions) for design approval, inspection, investigation or auditing.

(e) Seller must have prior approval of Buyer for any change to the product configuration, including engineering design and fabrication processes for Goods covered by this Order or any previous POs.

(f) Seller shall ensure that all of its subcontractors are provided with any and all applicable requirements, specifications and standards required by Buyer, its Customers or regulatory authorities, with respect to the Goods furnished under this Order.

(g) Seller shall report immediately to Buyer any known malfunctions, defects and/or un-airworthy conditions with respect to defect and/or un-airworthy condition.

(h) Seller shall notify Buyer of any product that does not conform to the specifications described or referenced by Buyer on this Order. Seller shall obtain approval from Buyer in regards to disposition of any such nonconforming Goods.

(i) Seller shall notify Buyer of any change in Goods, design, materials, process, suppliers, manufacturing facility location and,

unless otherwise indicated, shall obtain Buyer's prior written approval of any such changes.

(j) Ontic Supplier Quality Assurance Requirements (SQAR) US (PUF-101-3) at <http://www.ontic.com/ontic-resources> are hereby incorporated into, and as a condition of, this Order.

10. GOODS WARRANTY

Without limiting any warranties that may otherwise be associated with the Goods, including without limitation, implied warranties and warranties stated in any of Seller's documentation in favor of Buyer, Seller expressly warrants to Buyer that all Goods (a) will conform to all specifications, drawings, designs, quality control plans, and any other descriptions made available to Buyer by Seller; (b) will be free from defects in design, material and workmanship; (c) shall be merchantable; (d) shall be fit for the intended purpose; (e) will comply with all applicable laws and regulations; (f) will not infringe any patent, patent application or any other intellectual property rights of any third party; and (g) will be free and clear of any and all encumbrances of whatsoever kind and nature. Goods not in compliance with this Goods Warranty clause shall be considered "Non-Conforming Goods" with all the rights and remedies afforded therein. All warranties are transferrable to Buyer's ultimate end user/end customer.

11. SERVICES WARRANTY

Without limiting any warranties that may otherwise be associated with the Services, including without limitation, implied warranties and warranties stated in any of Seller's documentation in favor of Buyer, Seller expressly warrants to Buyer that it shall perform the Services (a) in a professional and workmanlike manner in accordance with the highest industry standards; (b) in accordance with all specifications, drawings, designs, quality control plans, and any other descriptions made available to Buyer by Seller; (c) in compliance with all applicable laws and regulations; and (d) in such a manner as to not infringe upon any patent, patent application or other intellectual property rights of any third party. All warranties are transferrable to Buyer's ultimate end user/end customer.

12. INSURANCE

(a) Seller shall provide, pay for, and maintain in full force and effect the insurance outlined here for coverages at not less than the prescribed minimum limits of liability, covering Seller's activities, those of any and all subcontractors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

Commercial General Liability:

- \$1,000,000 each occurrence;
\$2,000,000 general aggregate with dedicated limits per project site
- \$2,000,000 products and completed operations aggregate

Automobile Liability:

- \$1,000,000 combined single limit each accident

Workers' Compensation: Statutory Limit

Employer's Liability

- \$1,000,000 each occurrence bodily injury

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- \$1,000,000 disease - each employee
- \$1,000,000 disease – policy limit

Umbrella/Excess Liability

- \$3,000,000 combined single limit and annual aggregate

Contractor's Pollution Liability

- \$1,000,000 each occurrence; \$3,000,000 annual aggregate

(b) If Seller provides products for incorporation into, or services on, aircraft or aircraft engines, parts or components, Seller also shall provide, pay for, and maintain in full force and effect Aviation Liability including Premises, Products, Completed Operations and Contractual Liability in an amount of not less than \$25,000,000 per occurrence/annual aggregate for products/completed operations, covering Seller's activities, those of any and all subcontractors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

(c) Upon Buyer's request Seller will provide to Buyer a certificate of insurance naming Buyer as additional insured and certifying that at least the minimum coverages required here are in effect and specifying that the liability coverages are written on an occurrence form and that the coverages will not be canceled, non-renewed, or materially changed by endorsement or through issuance of other policy(ies) of insurance without 30 days advance written notice to Buyer. All coverages required of Seller will be primary over any insurance or self-insurance program carried by Buyer and shall include a waiver of subrogation. Failure of Buyer to demand such certificate will not be construed as a waiver of Seller's obligation to maintain such insurance.

13. INDEMNIFICATION

Seller shall defend, indemnify, and hold Buyer and all of its directors, officers, employees, agents and representatives harmless from and against any and all claims, costs, damages, demands, expenses, losses, suits or proceedings, including legal fees, direct, incidental and third party damages arising out of or in connection with: (a) any claim that the Goods or Services or any part thereof, infringe any patent, copyright, trade-mark, industrial design, trade secret or other intellectual property right or any contractual right or obligation; (b) any breach by Seller of any of its representations, warranties or covenants in this Order; (c) Seller's negligence, willful misconduct, or breach of the terms of this Order; (d) any violation by Seller, or its employees or subcontractors of any applicable governmental laws, rules, ordinances or regulations; (e) any claim by or on behalf of Seller's employees or subcontractors for salary, wages, benefits or other compensation, as well as any fines, penalties and interest for or by reason of or in any way arising out of Seller's failure to deduct, withhold, or contribute any amount in respect of withholdings, premiums, contributions or payments for which Seller is responsible in respect of its employees or subcontractors; and (f) any breach of Section 25 (Confidentiality) except to the extent any of such liability results from Buyer's sole negligence. Buyer shall not enter into any settlement agreement that contains any admission of liability on the part of Seller.

14. TERMINATION

(a) **Convenience.** Buyer shall have the right, at any time, upon written notice to Seller, to terminate all or any portion of the Goods

ordered under this Order. Upon receipt of notice to terminate, Seller shall discontinue all work under this Order in accordance with the conditions as stated in the notice. Buyer shall reimburse Seller for work performed and reasonable, proven direct costs incurred up to the effective date of termination. No profit shall be allowed. Within 30 days of the termination notice, Seller must submit a claim, with supporting documentation, for direct costs incurred. Failure to timely submit a claim will result in waiver of the claim.

(b) **Default.** Buyer may (a) by written notice of default to Seller, terminate the whole or any part of any Order in any one of the following circumstances: (i) if Seller fails to perform or deliver the Goods or Services within the time specified in the Order or any extension Buyer grants thereof; or (ii) if Seller fails to perform any of the other provisions of any Order, or so fails to make progress as to endanger performance of any Order in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of fifteen (15) calendar days after receipt of Buyer's notice or such longer period as Buyer may authorize in writing; and (b) upon such termination, procure, Goods or Services similar to those terminated, in which case Seller shall be liable for all cost of cover incurred by Buyer. In the event of partial termination, Seller shall continue performance of such Order to the extent not terminated. As an alternate remedy, and in lieu of termination for default, Buyer, at its sole discretion may elect to (1) extend the schedule; and/or (2) waive deficiencies in Seller's performance, in which case an equitable reduction in the Order price shall be negotiated. The rights and remedies of Buyer provided in this Order shall not be exclusive and are in addition to any other rights and remedies provided by law, in equity or under any Buyer Order. In the event Buyer wrongfully terminates this Order for default, in whole or in part, such termination becomes a termination for convenience under this Article.

(c) Seller's obligations under the warranty, patent and confidentiality provisions of this Order shall survive termination.

15. FORCE MAJEURE

Neither Buyer nor Seller shall be in default of the Order for any delay or failure to perform due to acts of government, court Order, civil unrest, sabotage, adverse weather conditions, fire, force of nature, utility failure, or other similar act or event beyond the parties' reasonable control and without the parties' fault or negligence. The party claiming relief herein shall give prompt notice to the other party, together with all necessary information with respect to the circumstances. Notwithstanding the above, Buyer may, by notice in writing, terminate any Order without liability if the actual delivery date will or is likely to extend beyond the scheduled delivery date by more than thirty (30) calendar days.

16. SECURITY; C-TPAT

(a) Seller's non-U.S. locations involved with the manufacture, warehousing, shipment, or delivery to U.S. agree to (1) review and use commercially reasonable efforts to comply with C-TPAT, (2) develop and implement security procedures ("**Security Plan**") consistent with C-TPAT, AEO, or similar program criteria, and (3) provide, upon Buyer's request, (i) a copy of the Security Plan; (ii) the certification number if Seller is certified by a supply chain security program (e.g., CTPAT Status Verification Interface); (iii) any

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changes to its certification status; and (v) the completion of a supply chain security questionnaire.

(b) Seller agrees to contact Buyer upon knowledge of any known or suspected security breach affecting the Goods (contraband, smuggling, threatening or suspicious activities detected, tampered container, trailer, lock or seal including a seal broken during a customs inspection).

17. WORK PERFORMED ON BUYER'S PREMISES

If Seller's work under this Order involves operations by Seller on the premises of Buyer or Buyer's customer or access to Buyer's systems or its computers, then:

(a) Seller shall comply with all of Buyer's safety and security procedures and shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work. As permitted by applicable law, Buyer reserves the right to deny any of Seller's employees, agents or subcontractors access to its or its customer's premises and/or systems for any reason in Buyer's sole discretion.

(b) Seller represents and warrants that it will use reasonable endeavors to ensure that all of its employees who will perform work under this Order on Buyer's or its customer's premises are free from illegal drugs. In the event that Seller has reason to suspect that any employee performing work under this Order on Buyer's or its customer's premises is using illegal drugs, Seller agrees to take immediate steps to remove such employee from Buyer's or its customer's premises and ensure that the employee does not continue to perform work under this Order. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription. The prescription medication must not prevent the employee from performing competent and safe work.

(c) As permitted by applicable law, Seller represents and warrants that it will conduct a criminal convictions records investigation of its employees through the use of an approved third-party background check vendor before they are assigned to work on any Order that requires that employee to enter Buyer's or its customer's premises. Where Seller is located in the UK, such investigation shall, at a minimum, take the form of a Criminal Record Check (CRC) and be in accordance with the UK Rehabilitation of Offenders Act (1974).

(d) Seller shall include this provision in any subcontract placed pursuant to this Order where the subcontractor will perform work on Buyer's or its customer's premises.

18. ENVIRONMENTAL MATTERS

(a) Seller covenants that the Goods (1) comply with all laws governing the management, handling, shipping, import, export, notification, registration or authorization of chemical substances such as the Montreal Protocol, the Stockholm Convention on Persistent Organic Pollutants, the US the Toxic Substances Control Act, the European Union's Restrictions on Hazardous Substances and REACH legislation and other comparable chemical regulations (collectively, "**Chemicals Legislation**"); and (2) can be used as contemplated by Buyer in full compliance with the Chemicals Legislation. Upon request Seller shall provide, subject to reasonable protection of Seller's confidential business information, the chemical composition of the

Goods and any other relevant information regarding the Goods, including without limitation, test data and safe use and hazard information.

(b) If Seller is located outside of the U.S. and is shipping Goods into the U.S., regardless of which party is the importer of record, Seller agrees to comply with the import restrictions contained in section 13 of the Toxic Substance Control Act (TSCA) 15 U.S.C. 2601 et seq., provide the appropriate TSCA Certification required under 19 CFR 12.121, and be responsible for any fines or liabilities resulting from breaches of this provision. This provision shall survive termination of this Order.

(c) Seller covenants that it has included requirements substantially similar to the covenants in clauses (a) and (b) above in all sub-contracts it enters into related to the fulfillment of this Order.

(d) When Seller ships Goods to Buyer, Seller shall provide with the Goods, in the language(s) of the location(s) where the goods are delivered to Buyer or Buyer's designee, (i) safe use instructions; (ii) hazard communication, safe transport and labelling information; (iii) compliance and certification documentation; and (iv) for chemical substance and mixtures, safety data sheets (MSDS/SDS). For each such material, identification shall reference the stock or part number of the delivered Goods

19. COUNTERFEIT GOODS

The following definitions apply to this Section:

(a) "**Counterfeit Goods**" means Goods that are or contain unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used Goods represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.

(b) "**Suspect Counterfeit Goods**" means Goods for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the Good part is authentic.

(c) "**Obsolete item**" means any part, component, sub-component or other deliverable hereunder, that is no longer in production by the OCM/OEM or an aftermarket manufacturer that has been provided express written authorization from the current design activity or original manufacturer.

(d) Seller shall not deliver Counterfeit Goods or Suspect Counterfeit Goods to Buyer under this Contract. Seller shall immediately notify Buyer with the pertinent facts if Seller becomes aware that it has delivered Counterfeit Goods or Suspect Counterfeit Goods.

(e) Seller shall only purchase products to be delivered or incorporated as Goods to Buyer directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain or other source with the express written authority of the OCM/OEM. Seller may only use another source if (i) the foregoing sources are unavailable, (ii)

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Seller's inspection and other counterfeit detection and avoidance risk mitigation processes will be employed to ensure the authenticity of the Goods, and (iii) Seller obtains the advance written approval of Buyer.

(f) Seller shall maintain an adequate counterfeit detection and avoidance risk mitigation processes in accordance with industry recognized standards and with any other specific requirements identified in this Contract.

(g) In the event that Goods delivered under this Contract constitutes or includes Counterfeit Goods, Seller will, at its sole expense, promptly replace such Counterfeit Goods with genuine Goods conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, Seller shall be liable for all costs relating to the remediation of Counterfeit Goods.

20. CONFLICT MINERALS

(a) Seller will not supply Goods that contain Conflict Minerals. "Conflict Minerals" is defined as tin, tantalum, tungsten and gold (the Conflict Minerals or 3TG) originating in the Democratic Republic of the Congo (DRC) and the adjoining countries of Angola, Burundi, the Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda and Zambia (the Covered Countries).

(b) If Seller has reason to believe its Goods contain Conflict Minerals Seller will immediately notify Buyer in writing providing a description of the Goods containing or believed to contain Conflict Minerals, date of supply, lot codes, part or serial numbers or other identifying characteristics and all other relevant information necessary to identify when and where the Goods were provided, type of mineral and the believed country of origin of the Conflict Mineral. In addition, Seller will have internal process and procedures that determine if their products contain Conflict Minerals and if so, implement supply chain due diligence processes to identify sources of these minerals and support efforts to eradicate the use of Conflict Minerals which directly or indirectly finance or benefit armed groups in the Covered Countries.

21. INTELLECTUAL PROPERTY

(a) Except as specifically set forth in writing and signed by both parties, Buyer shall retain control and ownership of all ideas, discovery, inventions, improvements, designs and processes, or other intellectual property owned, controlled or possessed by Buyer prior to the issuance of this Order. All Proprietary Data, tools, drawings, schematics, and other intellectual property owned by Seller at the commencement of performance hereunder, shall remain the property of Seller.

(b) Buyer hereby grants Seller a limited, revocable, paid-up license to use the drawings, specifications and other data and intellectual property (collectively, "Data") furnished to Seller hereunder for the sole purpose of Seller's performance under this Order. All Data is the property of Buyer, whether or not it is marked with a restrictive legend, and shall not be used, disclosed to others or reproduced for any other purpose without the prior written consent of Buyer, provided, however, Seller may provide Data hereunder to Seller's contractors for the sole purpose of enabling Seller's contractors to assist Seller in performing this Order. This license is non-assignable,

and this license is terminable with or without cause by Buyer at any time.

(c) Seller shall, as promptly as practicable after becoming aware that any Buyer Data in its care, custody or control is lost, destroyed, damaged, defective or deficient, notify Buyer of the event or condition in writing and Seller shall be held responsible for same.

(d) Seller hereby grants to Buyer, and Buyer's subcontractors and customers, in connection with the use, offer for sale, or sale of products provided to or work being performed for Buyer, an irrevocable, nonexclusive, paid-up worldwide license under any and all intellectual property (domestic or foreign), including patents, copyrights, industrial designs or mask works owned or controlled by Seller at any time or licensed to Seller, provided such a sublicense does not breach the license to Seller.

(e) Seller, in consideration of Buyer's furnishing of such Information and/or design funding, agrees that it will not use or assist others in using such Information to develop (including obtaining a Parts Manufacturing Approval (PMA) from the Federal Aviation Administration (FAA) pursuant to Part 21.303 of the Federal Aviation Regulations (FAR) or sell such items, or parts thereof) to anyone other than Buyer, either as production, spare or repaired items, without Buyer's prior written consent.

22. BUYER FURNISHED PROPERTY

Buyer may, by written notice, provide to Seller property owned by either Buyer or its customer ("Furnished Property"). Furnished Property shall be used only for performance under this Order. Title to Furnished Property shall remain with Buyer or its customer as applicable. Seller shall clearly mark (if not so marked) all Furnished Property to show its ownership. Except for reasonable wear and tear, Seller shall be responsible for, and shall promptly notify Buyer of, any loss or damage to Furnished Property. Without additional charge, Seller shall manage, maintain, and preserve Furnished Property in accordance with applicable law, the requirements of this Order and good commercial practice. At Seller's request, and/or upon completion of this Contract, Seller shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by Buyer.

Seller shall not scrap any Furnished Property without written consent.

Any Buyer Furnished Property shall be subject to the terms of QCF-106-15 Supplier Tooling Loan Agreement located at <http://www.ontic.com/ontic-resources>.

23. EXPORT COMPLIANCE

(a) Unless Buyer otherwise agrees in writing, Seller will be the importer/exporter of record of the Goods and Seller will be responsible for obtaining all necessary import/export licenses, permits and other required authorizations. All delivered items (including technical data) shall at all times be subject to all applicable import and export regulations including, without limitation, the U.S. Export Regulations, International Traffic in Arms Regulations of the U.S., and applicable U.S. Customs Regulations. Seller will not dispose of USA-origin items furnished by Buyer (including technical data) other than in and to the country of ultimate destination specified in the Order, government license(s), and authorization(s), except as

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law and regulation permit. Without limiting the foregoing, Seller shall apply for any applicable export authorizations required for the delivery of any Goods, Services or technical data under an Order.

(b) Seller shall strictly comply with all applicable export control laws and regulations, including without limitation the United States Department of State International Traffic in Arms Regulations ('ITAR') and the United States Department of Commerce Export Administration Regulations ('EAR') and shall retain documentation evidencing such compliance. Seller shall allow Buyer access to such documentation, for the purposes of auditing Seller's compliance with this clause (b).

(c) Seller shall immediately notify Buyer in writing if it or any parent, subsidiary or affiliate: (i) is or becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or on the consolidated list of asset freeze targets designated by the United Nations, European Union, and United Kingdom; or (ii) if it has had its export privileges denied, suspended, or revoked in whole or in part by any U.S. Government agency.

(d) In the event Seller breaches any of the provisions of this Section 23, Seller shall indemnify Buyer with respect to all losses, damages, claims, compensation, awards, expenses (including without limitation legal fees), fines and judgments incurred by Buyer as a result or as a consequence of such breach. This obligation shall survive termination of this Order.

(e) Subject to the ITAR and the EAR, only U.S. citizens and permanent resident aliens (green card holders) may have access to said items, data and/or services without the authority of a U.S. Government export license, agreement or applicable exemption or exception. Seller agrees that it will not transfer any export controlled item, data, or service, to include transfer to foreign persons employed by or associated with, or under contract to Seller or Seller's lower-tier suppliers, without the authority of a U.S. Government export license, agreement or applicable exemption or exception.

(f) If Seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and that it maintains an effective export/import compliance program in accordance with the ITAR.

(g) Where Seller is a signatory under an Ontic export license or export agreement, (e.g. TAA, MLA), Seller shall provide prompt notification to the Ontic Procurement Representative in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR, and the initiation or existence of a U.S. Government investigation that could affect the Seller's performance under this contract.

24. DUTY DRAWBACK

If Seller is an importer of record, upon request and where applicable, Seller will provide Buyer customs form 7543 entitled "Certificate of Delivery" properly executed. Seller shall provide, at no cost to Buyer, any information and documentation requested by Buyer to support any application by Buyer for duty drawback with respect to any material imported by Seller to satisfy Buyer's Order.

25. CONFIDENTIALITY

Seller agrees to treat as strictly confidential all provisions of this Order and any information provided as a result of this Order including, without limitation, all drawings, specifications, schematics and formulae ('Confidential Information'). Confidential Information will not be disclosed to any person, corporation, or third party ("recipient"), other than to employees of Seller who have a need to know for the performance of Seller's obligation hereunder, without the prior written consent of Buyer. Consent shall not be withheld in the case of disclosure required for an investigation by a governmental authority or other mandatory legal process. Seller further agrees not to use Confidential Information to independently develop, reverse engineer or produce a product which is similar to or imitates products which are the subject of the Confidential Information, or otherwise use the Confidential Information for its own benefit or the benefit of another. Notwithstanding any document marking to the contrary, any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer incident to the placing and filling of any Order shall not, be deemed to be confidential or proprietary information and accordingly shall be acquired free from any restriction on use or disclosure.

26. SUB-CONTRACTORS

Seller shall not, in whole or in part, assign or subcontract this Order to any third party without Buyer's prior written approval.

27. GOVERNING LAW, JURISDICTION and VENUE

This Order shall be governed by and interpreted in accordance with the laws of the State of California without regard to any conflicts of law provisions or rules and the Parties agree that suit may be brought for breach or interpretation of this Order exclusively in the State or Federal courts in Los Angeles, California, USA. The Parties expressly agree that the United Nations Convention for the International Sale of Goods will not apply to this Agreement and is hereby expressed waived from such application. The prevailing Party in any such legal action shall be entitled to reasonable attorney's fees and court costs in addition to any other amounts awarded as damages. The rights and remedies of Buyer hereunder are cumulative and in addition to any other rights and remedies provided by law or in equity.

28. MISCELLANEOUS

(a) **English Language.** Except as the parties may otherwise agree, this Order, data, notices, shipping invoices, correspondence and other writings shall be written in the English language. In the event of any inconsistency between any terms of this Order and any translation thereof into another language, the English language meaning shall control.

(b) **Releases and Publicity.** No public release of information regarding this Order shall be made without the prior written approval of Buyer.

(c) **Compliance.** Seller represents, warrants, and covenants that it shall supply all Goods and perform all Services in compliance with all applicable federal, provincial, international, national, state and local laws, including, but not limited to, those related to anti-bribery, labor,

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the environmental, and health and safety. Seller represents and agrees that it has not participated in and shall not participate in any conduct in connection with this Order that violates Buyer's Code of Business Ethics and other ethics policies outlined at <http://www.bbaaviation.com/about-us/corporate-social-responsibility.aspx>. In the event that Seller has an equivalent code of conduct and ethical policies, the word "Buyer's" in the preceding sentence shall be replaced with "Seller's." Seller shall immediately notify Buyer if Seller determines that it is in violation of Buyer's Code of Business Ethics and other ethics policies or Seller's code of conduct and ethical policies. Seller shall not offer or give a kickback or gratuity (in the form of entertainment, gifts or otherwise) for the purpose of obtaining or rewarding favorable treatment as a supplier to Buyer. If Buyer determines Seller has breached this clause (c), Buyer may cancel this Agreement upon written notice to Seller and Buyer shall have no further obligation to Seller.

(d) Slavery / Human Trafficking. Seller warrants that it has adequate controls in place to ensure the prevention of slavery, human trafficking, child labor and forced labor. Seller further warrants that, in the performance of this Order, it will comply with all applicable laws and regulations, including without limitation the Modern Slavery Act of 2015, relating to the prevention of slavery, human trafficking, child labor, forced labor and the ethical treatment of people. Buyer reserves the right to audit Seller's compliance with this clause (d).

(e) No Discrimination. Seller shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that Seller take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

(f) Government Contracts. For purchase orders placed by Buyer in support of and/or relating to a U.S. Government contract or subcontract, as identified on the Order, any Federal Acquisition Regulations (FAR) or Department of Defense FAR Supplement (DFARS), or NASA FAR Supplement (NFS) (collectively, "FAR Clauses") required to be included in this Order by applicable law, prime contract or higher-tier subcontract are incorporated by reference as if set forth herein. In the event that Buyer's prime contract or higher-tier subcontract is modified subsequent to the date Buyer issues this Order so as to modify or add any clause or requirement, Seller agrees to enter into a modification of this Order to insert such clause or requirements. If any such additional clause or requirement causes an increase or decrease in the cost of, or the time required, for the performance of any part of the Work under this Order, an equitable adjustment shall be made in the Order price or delivery schedule or both pursuant to Section 6, Changes. References to the terms "Government" and "Contractor" contained in the FAR Clauses shall be deemed revised to mean Buyer and Seller, respectively. Seller agrees to flow down all applicable FAR Clauses to its subcontractors and suppliers. If a prime contract number or priority rating are included in this order Supplemental Terms PUF-101-2B shall also apply to this order. Additional requirements may be called out in the body of the Order.

(g) Independent Contractor. It is understood that Seller is an independent contractor of Buyer. Nothing in this Order shall constitute Seller an employee, partner, or agent of, or attorney for Buyer for any purpose. Nor is Seller granted any right or authority to assume or to create any obligation or responsibility, whether express or implied, on behalf of or in the name of Buyer or to in any way bind Buyer. Seller shall not hold itself out as having any authority to bind Buyer.

(h) Waivers and Notices. Any notice required by this Order or waivers to this Order must be in writing and duly signed by the authorized representatives of both Parties. No waiver of any breach of this Order will extend to any subsequent breach. All notices shall be sent by registered prepaid post, by fax, or delivered personally to the representatives of the Parties.

(i) Severability and Interpretation. Each provision of this Order is severable from the other. In the event that any such provision is declared by a court of competent jurisdiction to be unenforceable, the validity of the remainder of the Order shall not be affected. Headings in this Order are for the purpose of convenience only and shall not be used in the interpretation of any part of this Order. In this Order, the use of the singular includes the plural and vice versa and the use of any one gender includes all genders.

(j) Assignment. This Order may not be assigned or transferred to any person, firm, or corporation without the express, prior written consent of the other party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Buyer may assign its rights and/or obligations to an affiliate, parent of Buyer or successor in interest Seller shall promptly notify Buyer in writing of any organizational changes made by Seller, including name change or ownership changes, mergers or acquisitions. A Change in Control shall be deemed to be an assignment or transfer prohibited hereunder. "Change in Control" shall mean any of the following: (1) the sale or exchange of equity shares controlling 20% or more of the voting rights in Seller or Seller's parent, (2) the sale, lease, transfer or other disposition of substantially all of the assets of Seller or Seller's parent or a sale by Seller of the assets relating to the product Seller produces or will produce for Buyer, or (3) any merger, reorganization, consolidation, recapitalization, business combination, or similar transaction of Seller or Seller's parent.

(k) Entire Agreement. This Order and any appendices constitute the entire agreement between the Parties with regard to the subject matter herein and supersede all other contracts, agreements or understandings of the matters herein subject, to include the issuance of any Order or invoicing terms provided by Seller. Appendices shall be applicable as specified in the Order.

(l) Waiver. Failure by either Party to enforce any provision of this Buyer Order shall not operate as a waiver of the requirements of such provision or law, or as a waiver of the right of a party thereafter to enforce such provision or law.

(m) Survivability. If this Order expires, is completed or is terminated, Seller shall not be relieved of those obligations contained herein. All the provisions will survive the termination.