



PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions ("Terms and Conditions") accompany Eclipse Aerospace, Inc.'s ("EAI") Purchase Order and, if accepted as is along with the Purchase Order, form the complete agreement between EAI and Seller ("Agreement"), each a "Party" and collectively, the "Parties" as used herein. Seller is deemed to accept these Terms and Conditions by a written or electronic acknowledgment of accompanying Purchase Order or by commencement of work as contemplated by this Agreement. Acceptance hereof by Seller supersedes, nullifies and voids any other terms, conditions, representations, understandings, in oral or written form with respect to the Purchase Order(s) referencing this Agreement. If Seller does not reply in writing its acceptance or change to these terms within 10 business days, then it shall be deemed that Seller has accepted these terms as is.

1. DEFINITIONS

Capitalized terms not defined in these Terms and Conditions shall take on the meaning as ascribed in the Purchase Order and any appendices accompanying the Purchase Order.

"**Aircraft**" shall mean the twin-engine jet known as the Eclipse 500® and/or Eclipse 550® that EAI manufactures, sells, services and supporting activities, including any derivatives thereof.

"**Intellectual Property Rights**" shall mean all ideas, processes, trademarks, service marks, inventions, designs, works of authorship, copyrightable works, copyrights, patentable subject matter, patents and patent applications, formulas, technologies, know-how, data, discoveries, trade secrets, or other intellectual property, and any enhancements, improvements, and derivations thereof (whether now in existence or hereafter developed, invented, or otherwise derived).

"**Material Breach**" shall mean: (a) Seller's failure to deliver the Products within the terms of this Agreement or of any written amendment; (b) Seller's breach of this Agreement or failure to perform any of its obligations under this Agreement or failure to make material progress with respect to its obligations so as to endanger performance of this Agreement or failure to honor its Product warranties, and, in any of these circumstances, Seller's failure to cure such breach or failure within five (5) business days after receipt of notice from EAI specifying the breach or failure.

"**Product(s)**" shall mean parts, assemblies, systems, and spare parts (including parts to support EAI's customer's Aircraft in the field) to be supplied by Seller under a PO.

"**Services**" shall mean maintenance, support and other professional servicing of the Products by Seller in accordance with the terms and conditions set forth in the applicable PO's accompanying appendices.

"**Software**" shall mean any and all computer software programs, programming, modules, instructions and code, in both source code and object code versions, included in or provided with or for Products, and all modules, libraries, databases, development tools, information, documentation, developers notes, comments (including source code comments), diagrams, flow charts, instructions, manuals and documentation and materials relating or necessary thereto, in written or electronic form. In addition, Software is a combination of associated computer instructions and computer data definitions that enable computer hardware to perform computation and/or control functions. Software can be embedded on reprogrammable or non-reprogrammable device(s). While the computer instructions and data definitions on reprogrammable or non-reprogrammable device(s) are generally referred to as firmware, the definition of Software in this Agreement shall also include firmware. "Object Code Software" shall mean that portion of Software required during manufacture, assembly, testing, or field support to be loaded into the Products and operated as part of the Products.

"**Technology**" shall mean any and all Intellectual Property embodied or incorporated in and/or related to the conception, design, production, testing, certification, manufacture, training, and proficiency of one's products or processes, or that employs, implements, modifies, improves, further develops or is otherwise derived therefrom or embodied therein including any and all Intellectual Property Rights subsisting therein or arising therefrom. The Intellectual Property Rights subsisting in or arising from the products and processes shall be considered part of the Technology.

2. PRICE, DELIVERY, PAYMENT

Seller shall produce and deliver the Products, Services and perform all of its other obligations under the Agreement, at the prices set forth therein, and in accordance with these terms and conditions. Conditioned upon the timely delivery of conforming, non-defective Products and/or Services as required by the Agreement, EAI shall pay Seller the prices set forth within this Agreement in accordance with these terms and conditions. Unless expressly stated in these terms and conditions, Seller shall not be entitled to any other compensation and EAI shall not be obligated to pay any additional or different compensation, except the prices set forth as indicated on the referenced Purchase Order.

2.1 DELIVERY AND SHIPMENT

a. Seller shall ship all deliverable Products and Services under the Agreement in accordance with the delivery and shipment terms and conditions set forth in this Article. All shipments of Products shall be delivered by Seller FCA Seller's facilities Incoterms 2010. For the avoidance of doubt, Seller shall ensure that all shipments and deliveries comply with all applicable import, export and customs rules and regulations and Seller shall be responsible for paying all applicable export customs duties, tariffs and other charges. A shipment containing hazardous and non-hazardous materials as defined by the Department of Transportation regulation HMR title 49 CFR, must have separate packing sheets for the respective hazardous and non-hazardous materials. The shipping documents shall describe the material according to the applicable classification and/or tariff and shall include any required Material Safety Data Sheets. In addition all hazardous chemicals shall be identified and marked in accordance with Department of Labor regulations 29 CFR 1910. Seller shall use the shipping address as set forth on the Purchase Order or Purchase Agreement for all shipments and deliveries of Products to EAI.

b. Seller shall use EAI's designated transportation carrier and service level (e.g.

overnight, ground, etc.). Shipping costs for Product sent via non-EAI designated freight carriers and/or service levels will be paid by the Seller.

c. Seller shall deliver to EAI conforming, non-defective Product in the quantities set forth in the Purchase Order and on, or no earlier than three (3) business days before, the delivery date specified. In the event of early delivery, EAI at its discretion may either refuse delivery or store Product at Seller's expense and EAI's obligation to pay in accordance with Article 2.2 is based on the Purchase Order defined delivery date, unless delivery in advance of the contractual commitment date is expressly authorized by EAI.

d. Seller agrees that time is of the essence under this Agreement. In the event of any anticipated or actual delivery delays, Seller shall: (a) promptly notify EAI in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; and (b) provide EAI with a written recovery schedule. Without limiting any of EAI's rights and remedies with respect thereto, Seller shall take such actions as are reasonably necessary to meet EAI's schedule. At EAI's request, Seller shall, at Seller's expense, ship via air or other expedited routing to avoid or minimize the delay.

e. All data, reports and certifications associated with deliveries under this Agreement shall be directed to the attention of the EAI authorized Procurement Agent.

2.2 INVOICING

Seller's invoices to EAI shall be submitted to the following billing address:

Eclipse Aerospace, Inc.
Attention: Accounts Payable
3520 Spirit Dr. SE
Albuquerque, NM 87106 USA

Unless otherwise mutually agreed in writing, all invoices are payable net 30 days from EAI's receipt of an undisputed invoice.

3. COOPERATION

EAI and Seller shall fully cooperate and provide all reasonable and necessary information and respond to the other Party in such a manner as to enable Seller and EAI to satisfy their obligations under this Agreement in a timely manner.

4. INSPECTION, ACCEPTANCE AND REJECTION

Upon EAI's receipt of delivery of the Products, any Product which is nonconforming as to specification, quality or any other requirements set forth in the Purchase Order and accompanying appendices shall constitute a Material Breach of this Agreement and EAI shall have the absolute right to reject such Product, in whole or in part, and notify Seller thereof. In the event of such tender of non-conforming Product, EAI shall be entitled to all remedies under this Agreement and applicable law, and shall also have the following self-help remedies: (a) to hold such nonconforming Product for a reasonable period at Seller's risk and expense pending a determination to accept or reject any or all thereof; (b) to return such nonconforming Product to Seller at EAI's election and at Seller's risk and expense for replacement or correction; (c) to accept such nonconforming Product subject to an equitable price reduction; and (d) to replace or correct such nonconforming Product and charge to Seller the cost occasioned to EAI thereby, which costs shall be US\$110 per/hour with a minimum charge of one hour plus the cost of materials and incidental labor charges including, but not limited to; engineering, quality, supply chain, etc., as required to effect such correction. Inspection and acceptance of any Product by EAI shall not be deemed to alter or affect the obligations of Seller or the rights of EAI under the warranties herein or applicable law.

5. WARRANTY

a. Seller warrants that all Products and Services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawing made a part of this Agreement), will be new, merchantable and, free from defects in materials and workmanship. EAI's approval of design or specification furnished by Seller shall not relieve Seller of its obligations under this warranty. In addition, EAI shall receive the benefits of any standard warranties that Seller makes available to its customers for similar products or services. With respect to Products, or components thereof, that are upgraded or retrofitted from time to time, Seller represents and warrants that such upgraded or retrofitted Products conform to the then-current and applicable specifications set forth in this Agreement. Seller further warrants that the Products will be sold to EAI with good and marketable title, free and clear of all liens, claims and encumbrances. Seller further warrants that all Services provided hereunder shall be performed by qualified personnel and shall conform to highest industry standards.

b. For new Products that are discovered by EAI, EAI's Designees or EAI's customers as defective or nonconforming upon initial use or power-on (e.g. with zero (0) flight hours on the Product), Seller shall promptly replace such Product with new manufactured Product with a full Warranty Period as set forth in Article 5(a) above. For repaired Products that are discovered by EAI, EAI's Designees or EAI's customers as defective or nonconforming upon initial use or power-on, Seller shall promptly replace such Product with replacement repaired Product or, in the event that Seller is unable to promptly replace with a repaired Product, Seller shall replace with new Product.

c. For Products that are discovered by EAI, EAI's Designees or EAI's customers as defective or nonconforming that have been in use for less than twenty-five (25) flight hours, Seller shall promptly replace such Products with (i) newly manufactured Product in the case that such Product was new when installed on the Aircraft or; (ii) with repaired Product in the case such prematurely failed Product installed on the Aircraft was a repaired unit; or (iii) with replacement overhauled Product in the case such prematurely failed Product had most recently been overhauled prior to installation on the Aircraft. In the case of (ii) or (iii) above in this Article 5 (c), Seller shall make prompt replacement with repaired or overhauled Product as applicable; if Seller is unable to promptly replace Product with such repaired or overhauled Product, then Seller shall replace new Product. In the case of (i) or (ii) or (iii) above in this Article 5 (c) the warranty period, as applicable, shall restart.



d. This warranty, together with Seller's standard product and service warranties and guarantees, if any, shall survive inspection, test and acceptance of, and payment for, the Products or Services. This warranty shall run to EAI, its successors and assigns, and end-users of EAI's Aircraft. The warranty for Products and Services shall commence upon transfer of title of Product or Service to EAI as determined by Article 2.1 and shall extend for a period of two (2) years from the date of delivery of EAI's Aircraft to EAI's customer or the delivery of the part or component into an EAI Customer Aircraft.

e. EAI may, at its option, either (i) return or reject defective or nonconforming Products for credit or refund, or (ii) require prompt repair or replacement of the defective or nonconforming Products or Services. For any defective or nonconforming Products (including new, overhauled, rebuilt or remanufactured Products) that are replaced during the warranty period, Seller agrees to pay any and all reasonable costs for EAI to evaluate and disposition such nonconforming Product and, for the actual costs to remove non-conforming Product and re-install conforming Product at the rate of US\$110 per hour plus freight costs (and all related costs, including customs duties, taxes and tariffs) for the shipment of replacement Products and/or tooling from Seller to EAI or an EAI authorized service facility and freight costs for the return of replaced Products and/or tooling from said facility to Seller.

f. The warranty for overhauled, rebuilt or remanufactured Products shall be twelve (12) months from the date the first flight hour was recorded on the Product by EAI or its customer.

g. In the event EAI performs rework to Product during the warranty period, the cost to rework shall be US\$110 per/hour with a minimum charge to Seller of one hour plus the cost of any materials and incidental other labor costs to include, but not be limited to; engineering, quality, supply chain, etc.

6. SELLER'S NOTICE OF DISCREPANCIES

Seller shall promptly notify EAI in writing, within 5 business days if Seller discovers or suspects any materially adverse conditions or circumstances relating to Seller's operations, processes, Products or if Seller becomes aware of any situation that exists that may negatively affect the Products delivered or to be delivered, or Seller's ability to deliver Products under this Agreement.

7. INTELLECTUAL PROPERTY INDEMNITY

Seller shall indemnify, defend and hold harmless EAI and its Indemnitees from all claims (including, but not limited to, claims based on intentional infringement of Intellectual Property Rights known to Seller at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs) related to the actual or alleged infringement of any United States or foreign Intellectual Property Rights (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of, or as a result of the manufacture, sale or use of Products delivered by Seller pursuant to this Agreement by either EAI or its Indemnitees. EAI will notify Seller of any such claim and Seller will, at its own expense, fully defend such claim on behalf of the Indemnitee.

8. INDEMNIFICATION

Seller will hold harmless, indemnify and defend EAI and its successors and permitted assigns, and their respective officers, directors, employees, stockholders, agents and affiliates, from and against any and all third-party damages, claims, losses, liabilities and expenses (including without limitation costs of investigating and reasonable attorneys' fees and expenses), which may arise out of any claim that any Product caused or is responsible for property or other damages or personal injury or death to any third party due to Seller's negligence or due to the design or manufacture of a Product, but excluding any liability causally related to improper installation of the Product by EAI, an EAI induced manufacturing or design defect or other such failure in the Aircraft manufactured by EAI or by the negligence of EAI, its employees or agents.

9. LIMITATIONS OF LIABILITY

a. EXCEPT FOR THE FOLLOWING PARAGRAPH OF THIS ARTICLE BELOW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY FOR ANY INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, OR FOR LOST PROFITS, OR BUSINESS INTERRUPTION LOSSES, IN CONNECTION WITH THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR ANY REMEDIES PROVIDED FOR IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

b. NOTWITHSTANDING THE ABOVE PARAGRAPH OF THIS ARTICLE AND EXCEPT FOR LIABILITY UNDER OR ARISING FROM (A) ARTICLES 7, 8, 11.12, 11.21, AND/OR 11.22, (B) A PARTY'S GROSS NEGLIGENCE, (C) A PARTY'S WILLFUL MISCONDUCT, AND (D) DEATH AND INJURY TO NATURAL PERSONS ATTRIBUTABLE TO A PARTY'S ACT OR OMISSION, A PARTY'S LIABILITY, WHETHER IN TORT, CONTRACT OR OTHERWISE, ARISING FROM THIS AGREEMENT AND ANY PRODUCTS AND SERVICES DELIVERED OR DELIVERABLE UNDER THIS AGREEMENT SHALL IN NO EVENT EXCEED THE COMPENSATION PAID OR PAYABLE BY EAI TO SELLER FOR THE PRODUCT OR SERVICE WITH RESPECT TO WHICH SUCH LIABILITY IS ASSERTED.

10. PUBLICITY

Without EAI's prior written approval, Seller shall not, and Seller shall cause its suppliers not to, release any publicity, advertisement, news release or denial or confirmation of same, regarding this Agreement or the Products or program to which it pertains.

11. MISCELLANEOUS PROVISIONS

11.1 SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT

A. Ownership and use of special tooling and special test equipment

Any tooling or test equipment produced or otherwise acquired by Seller to perform its obligations under this Agreement that is paid for by EAI as NRT or NRE and other items paid for or otherwise provided by EAI to Seller for use in the manufacturing of Product or otherwise in the performance of Service (collectively, "STASTE") is and shall, at all times, remain EAI's property. Seller shall, at EAI's request, furnish EAI such information and execute and deliver to EAI such documents and meet all actions as EAI may reasonably request to assure that all STASTE is titled and registered in the name of EAI and protected from the claims of Seller's creditors and lien holders.

Seller shall use STASTE only to perform its obligations under this Agreement. Except as expressly permitted in this Agreement, Seller shall not modify, alter, rework, destroy, dispose of, transfer or ship to any other person any STASTE without the prior express written consent of EAI, which may be withheld by EAI in its sole discretion. If EAI permits the transfer of the STASTE to any other person, Seller shall cause such person to comply with Seller's obligations under this article 11.1 with respect to such STASTE and Seller shall be liable for the actions and omissions of such persons.

Seller is responsible to adhere and conform to the requirements as specified in the most current version of the "supplier tool control" procedure.

B. Liens

Seller shall not, directly or indirectly, create, incur, assume or suffer to exist any lien, mortgage, encumbrance, pledge, charge or security interest of any kind ("Lien") on or with respect to the STASTE or EAI's title thereto or any interest therein, except (i) any lien on the STASTE arising as a result of; (a) claims against EAI that are not related to the transactions contemplated by this Agreement, or (b) any act or omission by EAI that is not related to the transactions contemplated by this Agreement, or (c) claims against EAI for any tax for which Seller is not obligated to indemnify EAI and for which Seller is not otherwise responsible; and (ii) liens for taxes being contested by Seller in good faith and by appropriate proceedings; and (iii) material men's, mechanics' or workers' liens arising in the ordinary course of business, for amounts the payment of which either is not delinquent or being contested by Seller in good faith and by appropriate proceedings and where, in EAI's opinion, there is no danger of the sale, forfeiture or loss of the STASTE. Seller, at its own expense, shall promptly satisfy or otherwise take such actions as may be necessary to keep the STASTE free and clear of, and to duly discharge or eliminate or bond in a manner satisfactory to EAI, any such lien not excepted above. Seller shall promptly notify EAI upon becoming aware of any tax or other lien that attaches to the STASTE as to the full particulars thereof. EAI shall have the right, at EAI's expense, to file UCC-1 financing statements (or equivalent filings) in the jurisdictions in which the STASTE is located stating that STASTE is subject to EAI's rights and Seller's obligations under this Agreement, and Seller shall cooperate with such filings.

C. Taxes

Seller shall be liable for all import, export, use, property, ad valorem and similar taxes, tariffs and other charges with respect to the STASTE. Seller shall pay such amounts directly to the applicable taxing authorities, provided, however, that if EAI pays any such amounts on Seller's behalf, Seller shall reimburse EAI for such amounts within thirty (30) calendar days of EAI's written request for reimbursement.

11.2 RIGHTS AND REMEDIES

Any failures, delays or forbearances of either Party in insisting upon or enforcing any provisions of this Agreement, or in exercising any rights or remedies under this Agreement, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect. The rights and remedies set forth in this Agreement are cumulative and in addition to any other rights or remedies that the Parties may have at law or in equity. If any portion of any provision of this Agreement is or becomes void or unenforceable by law, the remainder of such provision and the remainder of this Agreement shall be valid, enforceable and shall continue in full force and effect.

11.3 GOVERNING LAW

The laws of the State of New Mexico, USA, except for its conflicts of laws rules, shall govern this Agreement. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to transactions under this Agreement.

11.4 JURISDICTION AND VENUE

Any and all Disputes between the Parties that may arise pursuant to this Agreement will be heard and determined before an appropriate arbitrator, federal, or state court located in Albuquerque, NM. The Parties hereto acknowledge that such court has the jurisdiction to interpret and enforce the provisions of this Agreement and/or an arbitrator's judgment, and the Parties waive any and all objections that they may have as to personal jurisdiction or venue in any of the above courts.

11.5 ATTORNEYS' FEES AND COSTS

In the event that either Party commences litigation to recover amounts due under this Agreement or to otherwise enforce or defend its rights under this Agreement, the prevailing Party in such litigation shall be entitled to a prompt reimbursement of the attorneys' fees and costs it incurred in connection with such litigation.

11.6 SEVERABILITY

If any provision of this Agreement is held by an arbitrator's judgment or court of competent jurisdiction to be illegal or invalid, such provision shall be either reformed in the manner most closely approximating the Parties' original intentions, or if not possible, shall be severed from the Agreement; provided, however, in each case, the remainder of this Agreement shall remain in full force and effect.



11.7 CONSTRUCTION

The section headings in these terms and conditions are inserted only as a matter of convenience, and in no way define, limit, extend, or interpret the scope of this Agreement or of any particular section. If there is any conflict or inconsistency between the provisions set forth in this Agreement, to the extent possible such provisions shall be interpreted in a manner so as to make them consistent. Unless expressly stated to the contrary, in this Agreement, the use of the term "including" shall mean "including, but not limited to."

11.8 WAIVERS STRICTLY CONSTRUED

With regard to any power, remedy or right provided herein or otherwise available to any Party hereunder (a) no waiver or extension of time shall be effective unless expressly contained in writing signed by the waiving Party; and (b) no alteration, modification or impairment shall be implied by reason of any previous waiver, extension of time, delay or omission in exercise, or by any other indulgence.

11.9 ADDITIONAL DOCUMENTS

Each Party hereto agrees to execute any and all further documents and writings and to perform such other actions which may be or become necessary or expedient to effectuate and carry out the purposes of this Agreement.

11.10 AGREEMENT NEGOTIATED

The Parties hereto are sophisticated and, as a result, they do not believe that the presumptions or similar laws or rules relating to the interpretation of contracts against the drafter of any particular clause should be applied in this case and therefore waive their effects.

11.11 SURVIVAL

The following Articles of these terms and conditions shall survive termination, expiration or suspension of this Agreement for any reason: Articles 5, 7, 8, 9, and 11.

11.12 RESTRICTIONS

For EAI controlled designed Products, Seller agrees that during the term of this Agreement and for ten (10) years following termination thereof, Seller shall not solicit nor offer for sale, to any third party, Product (including any product substantially similar to the Product) incorporating Seller Collective Technology that may be used in any EAI manufactured Aircraft. For Product (including any product substantially similar to the Product) containing EAI Collective Technology, Seller shall be prevented, in perpetuity, from offering such Products (including any product substantially similar to the Product) for sale to any third party that can be used in any EAI-manufactured Aircraft.

11.13 PERFORMANCE PROVISION

a. Seller agrees that time is of the essence under this Agreement. Seller shall immediately disclose to EAI, and use best efforts to mitigate, any actual or potential events or limitations that would threaten to delay the timely performance of this Agreement, including but not limited to delivery of conforming Product to the delivery schedules set forth in the Purchase Orders. Such threats may include, but not be limited to matters such as labor disruptions, material shortages, shipping strikes, etc. Unless any delay in performance is a force majeure event or unless EAI expressly in writing agrees to a delay in delivery of Product, Seller agrees at Seller's cost and expense to employ best efforts to mitigate any such delivery delay(s), including but not limited to: the payment of express delivery charges, expedite premiums, over time, and similar such premiums and/or, in the event Seller's mitigation efforts do not meet the timely performance requirements of this Agreement, then Seller shall pay for any/all additional costs, expenses, etc. for mitigation efforts reasonably employed by EAI.

b. Without limiting EAI's rights or remedies hereunder, the Parties agree if there is an actual or likely delay in performance of this Agreement including, but not limited to timely and conforming Purchase Order deliveries, EAI may at its option; (a) cancel or reschedule the Purchase Order in whole or in part for the affected Product at no cost or penalty to EAI; and (b) at no penalty to EAI, reschedule all Product presently on order with Seller.

11.14 TAXES

The pricing set forth in this Agreement includes, and Seller is liable for and shall pay, all applicable taxes, duties, tariffs, impositions, charges and exactions imposed on, or measured by the value, cost or amount paid for the Products, Services, or Special Tooling and Special Test Equipment (defined below), including the sale thereof to EAI or an EAI Designee (collectively "Taxes"). Seller shall defend, indemnify and hold harmless EAI or an EAI Designee against all such Taxes, and any interest and/or penalties thereon. EAI or an EAI Designee will deliver to Seller a valid New Mexico resale certificate with respect to purchases of Product for installation on customer's Aircraft.

11.15 COOPERATION

a. EAI and Seller shall fully cooperate and provide all reasonable and necessary information and feedback, and respond to the other Party in such a timely manner as to enable Seller and EAI to satisfy their obligations under this Agreement in a timely manner.

b. Seller and Seller's subcontractors shall provide full access to facilities, personnel, equipment and data necessary for EAI and to verify and validate production capabilities, capacity and processes.

c. All Products or Services shall be subject to inspection and test at all times and places by EAI, EAI's agent or designee, including Seller's facility and Seller's sub-tier supplier's facilities, immediately upon written notice from EAI. EAI employees, its designees and its agents shall have access to all areas on the premises of the Seller or of Seller's subcontractors in which work on this Agreement is being performed. If this Agreement calls for the delivery of Products or Services for installation on Aircraft, the right of inspection and test shall extend to representatives

of the Federal Aviation Administration, and/or equivalent foreign government agencies.

d. Seller and Seller's subcontractors shall provide all reasonable facilities for the safety and convenience of EAI employees or its agents at no additional cost. Seller shall furnish all information and data as may be reasonably requested to perform their inspection. All Products and Services to be delivered hereunder shall be subject to final inspection, test and acceptance by EAI at destination, notwithstanding any payment or inspection at source. Acceptance by EAI shall not waive any rights that EAI might otherwise have at law or by express reservation in this Agreement with respect to any nonconformity.

11.16 SELLER'S QUALITY OBLIGATION

The FAA requires that EAI ensure that its suppliers have an acceptable quality control system. Although FAA regulations explicitly refer to the production approval holder (e.g. EAI), it is understood to extend to the production approval holder's suppliers and their sub-tier suppliers as well. (See FAA Advisory Circular 21-43.)

To comply with the requirements stated in the paragraph above, EAI has developed Supplier Quality Requirements document number SC-3-1200 (herein "SQR"). Seller shall adhere and conform to the most current version of the SQR and referenced documents and Seller shall develop, demonstrate and maintain an SQR compliant program acceptable to EAI for the Products purchased under this Agreement. Seller shall permit EAI to review procedures, practices, processes and related documents to determine such acceptability and compliance. Seller shall perform or cause to be performed all inspections and tests necessary to substantiate that the Products and Services furnished under this Agreement conform to the SQR and to the Agreement's requirements, including any applicable technical requirements for specified manufactured parts.

11.17 CHANGES

a. For EAI controlled designed Products, EAI may, at any time, exclusively in writing signed by its authorized procurement agent, make changes to the general scope of this Agreement which affect the: (a) drawings, designs, or specifications of goods being specially manufactured for EAI; (b) method of shipment or packing; (c) place of delivery; or (d) delivery schedules. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Agreement, an equitable adjustment may be made in the price or delivery schedule or both as mutually agreed, and the Agreement shall be modified in writing accordingly provided however, that in the case of Product design changes that shall render the Product on open Purchase Orders unusable in whole or in part, the equitable adjustment shall not exceed the value of the open Purchase Order(s). Any claim by Seller for adjustment under this Article must be asserted in writing to EAI's authorized procurement agent not later than twenty (20) calendar days after the date of receipt by Seller of the written change authorization, or within such extension as EAI may grant in writing. If no claim is received within twenty (20) calendar days, such change is deemed to be accepted by Seller. Claims shall be in the form of a complete change proposal fully supported by detailed and factual information. Where inventory assets will be made obsolete as a result of a change is included in Seller's claim for adjustment, EAI shall have the right to direct the manner of disposition of such assets. EAI shall have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim.

b. Any Seller proposed design changes shall be submitted to EAI through the authorized Procurement Agent in the form of an EAI engineering change request (herein "ECR"). EAI may provide an initial response to Seller within twenty (20) calendar days, however, there shall not be deemed acceptance of ECRs by EAI. EAI may accept or reject such ECRs in its sole discretion. Any cost savings attributed to ECRs shall be allocated as detailed in this Article 11.17 of this Agreement.

11.18 NON-EXCLUSIVE/NON-REQUIREMENT AGREEMENT

This Agreement is neither a requirements agreement nor does it establish an exclusive relationship with Seller. EAI may purchase Products of a similar or identical nature from other parties or sources during the term of this Agreement and may cause Services of the same or of a similar kind to be performed by its own personnel or other parties during the term of this Agreement.

11.19 TERM AND TERMINATION

a. This Agreement shall terminate upon delivery of the Products or completion of the Services as defined in the Purchase Order unless terminated as provided for in (b) of this Article 11.19.

b. Termination for Material Breach

1. Upon a Material Breach by Seller that is not remedied within the applicable cure period, EAI may, by written notice to Seller, terminate this Agreement or any portion of the work being performed hereunder.

2. Upon a Material Breach by EAI that is not remedied within the applicable cure period, Seller may, by written notice to EAI, terminate this Agreement.

c. Termination Activities:

If all or part of this Agreement is terminated for any reason

(a) Seller shall continue all work not expressly terminated by EAI; and

(b) EAI shall pay for:

(i) Conforming Product or Services delivered prior to the date of termination; and

(ii) Conforming Product or Services that are not affected by the termination; however, if this Agreement is terminated in whole by EAI due to an uncured Material Breach by Seller, EAI will have no obligation to accept or pay for any Products or Services not delivered prior to the date of termination and EAI may, at its sole discretion, elect to require Seller to deliver Product or Services scheduled for delivery



within sixty (60) calendar days after the date of termination and shall pay for same.

(c) EAI may, at its sole discretion, require Seller to transfer title and deliver to EAI, as directed by EAI and at EAI's cost for packing and shipping: (i) any completed Products or Services related to this Agreement, (ii) any partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and agreement rights (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the terminated portion of this Agreement and (iii) any EAI Property or any other property belonging to EAI's customer(s). Any Manufacturing Materials for which EAI has paid prior to termination shall be the property of EAI.

11.20 INSURANCE

Seller shall at all times during the term of this Agreement have in effect, at its own expense, the following types of insurance:

a. Property Insurance

Property insurance that insures against all risks of loss or damage to; (a) all of Seller's premises at which Seller is engaged in activities in connection with this Agreement, (b) EAI Property. Such insurance shall be in standard form and afford limits of liability of not less than: (i) with respect to Seller's premises, the commercially reasonable and available insurable value of such Seller's premises and (ii) with respect to the EAI Property, not less than the replacement cost of such items. EAI shall be the sole loss payee with respect to the coverage for EAI Property.

b. Auto Liability Insurance

Auto Liability insurance coverage of not less than five million US dollars (US\$5,000,000) per occurrence. Policies will include coverage for owned vehicles, hired vehicles and non-owned vehicles.

c. Commercial General Liability Insurance

Commercial general liability insurance that insures against claims for bodily injury and property damage arising out of the operation of Seller's business, in standard form, which insurance shall include blanket contractual liability insurance coverage and that affords limits of liability of no less than ten million US dollars (US\$10,000,000) combined single limit per occurrence.

d. Products Liability Insurance

Products liability insurance for Products and Services provided by Seller under this Agreement in the amount of fifty million US dollars (US\$50,000,000) on a per-occurrence basis, with defense outside the limits. Seller shall cause EAI to be added as an additional insured to Seller's products liability insurance policy to the extent covering Products provided by Seller hereunder.

e. Worker's Compensation, Employer's Liability & Industrial Insurance

Insurance coverage sufficient to comply with all applicable laws relating to worker's compensation, employer's liability, and industrial insurance with respect to all of its employees engaged in performing Services in connection with this Agreement.

f. Policy Provisions

With respect to Seller's policies of insurance maintained in accordance with this Article: (a) with respect to the insurance required by Article 11.20(a), Seller shall cause the policies to be issued by a qualified insurance company currently rated A- or better with Best's Key Rating Guide for Property Casualty Insurers; (b) Seller shall cause each policy to include an endorsement providing that no cancellation or material change in coverage may be made without sixty (60) calendar days' prior written notice to EAI; (c) Seller shall provide to EAI no less than thirty (30) calendar days before the expiration of any expiring policy, a certificate of insurance evidencing the renewal of such policy; (d) within thirty (30) calendar days of EAI's request, Seller will provide copies of all declaration sheets illustrating policies required to be maintained under this Agreement; (e) Seller shall cause each policy to be endorsed to provide for the waiver by the underwriter of all rights of subrogation against EAI and its Affiliates (and for this purpose, Seller shall be deemed to have waived all claims against EAI to the fullest extent possible); and (f) with respect to the other insurance required by this Article, Seller shall cause the policies to be endorsed to provide that the coverage shall be primary to any insurance carried by EAI and that any insurance maintained by EAI shall not contribute with the insurance required by such other insurance requirements.

11.21 CONFIDENTIAL, PROPRIETARY INFORMATION, AND MATERIALS

The Parties acknowledge and agree that they have entered into that certain Non-Disclosure Agreement (herein "NDA") and that such NDA shall govern all disclosures of confidential and proprietary information (as defined in the NDA and supplemented below) hereunder. For the avoidance of doubt and without limiting the scope of the NDA, EAI and Seller acknowledge that the following items and materials shall be considered "confidential and proprietary information" under the NDA: (a) confidential, proprietary, and/or trade secret information; (b) tangible items or materials containing, conveying or embodying such information; and (c) tooling or other equipment identified as being subject to this Article and obtained, directly or indirectly, from the other in connection with this Agreement or other agreement referencing this Agreement. EAI and Seller shall each use the other Party's confidential and proprietary information only in the performance of and for the purpose of this Agreement and/or any other agreement referencing this Agreement. The restrictions on disclosure or use of confidential and proprietary information by either Party shall apply to all materials derived by one Party from the other Party's confidential and proprietary information. Upon either Party's request at any time, and in any event upon the completion, termination or cancellation of this Agreement, each Party shall return to the other Party all of the other Party's confidential and proprietary information and all materials derived therefrom, unless specifically directed otherwise in writing by the Party from whom the confidential and proprietary information originated. The Parties shall not, without the prior written authorization of the other Party, sell or otherwise dispose of (as scrap or otherwise) any parts or

other materials containing, conveying, embodying or made in accordance with or by reference to any confidential or proprietary information of the other Party. The provisions of this Article are effective in lieu of any restrictive legends or notices applied to confidential and proprietary information. The provisions of this Article shall survive the performance, completion, termination or cancellation of this Agreement. The Parties agree not to terminate the NDA for so long as this Agreement is in effect. Notwithstanding any provision of the NDA to the contrary, the confidentiality obligations contained in the NDA shall not terminate or expire earlier than ten (10) years after the termination or expiration of this Agreement.

11.22 INTELLECTUAL PROPERTY LICENSE

a. Seller hereby grants to EAI a perpetual, irrevocable, nonexclusive, fully paid-up, royalty-free, worldwide license to its Technology to make, have made, reproduce, modify, distribute, perform, display, import/export, sell, offer for sale, use (alone or in combination) or otherwise exploit Product in connection with the design, development, manufacture, testing, certification, use, distribution, sale and support of EAI's Aircraft with the Product installed, including rights to have any of the foregoing done on EAI's behalf and through multiple tiers of vendors, distributors and resellers. The license granted to EAI under this Article also includes the right to grant perpetual, irrevocable, nonexclusive, fully paid-up, royalty-free, worldwide, transferable sublicenses to EAI customers and end-users who purchase or otherwise acquire EAI's Aircraft to use and exploit the Product as installed in such Aircraft. Notwithstanding the scope of the license granted hereunder, support of all Products and/or Services shall remain the responsibility of Seller per the terms of this Agreement.

b. Subject to any use restrictions set forth in this Agreement, EAI hereby grants to Seller a revocable, nonexclusive, fully paid-up, royalty-free, worldwide license to its Technology to design, develop, manufacture, test, certify, use, distribute, sell and support the Products, solely for the purpose of purchasing such Products from Seller by EAI. Unless otherwise provided hereunder, Seller shall not directly or indirectly make any effort to deconstruct EAI's Technology provided, including, but not limited to: translating, decompiling, disassembling, reverse engineering, reverse engineering, creating derivative works or compilations, or performing any other operation to obtain any portion of its contents. Seller shall take all reasonable actions necessary to prevent unauthorized access, disclosure or use of EAI's Technology provided.

11.23 DELEGATION AND SUBCONTRACTING

Seller may subcontract portions of its performance under this Agreement subject to EAI's prior written consent for each subcontract, which consent may be withheld for any reason whatsoever. For the sake of clarification, contracts for the supply of raw materials or standard commercial supplies shall not be considered to be subcontracts. No delegation or subcontracting by Seller, with or without EAI's consent, shall relieve Seller of any of its obligations under this Agreement.

11.24 NO ASSIGNMENT

Neither Party may assign or transfer any of its rights, obligations or interests under this Agreement, whether directly or by operation of law, except to an entity that it controls, controls it, or with which it is under common control, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or conditioned. Except as provided in Article 11.24, Seller shall not delegate or subcontract any of its obligations under this Agreement.

11.25 SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the Parties successors and permitted assigns.

11.26 EXPORT COMPLIANCE

Each Party acknowledges that the Products and Services, as well as information, transacted or otherwise disclosed hereunder may be subject to U.S. export controls laws and regulations, that compliance with such law and regulations is strictly required, and that it may be necessary to obtain required government approvals before such items can be exported to foreign persons, businesses or governments. Therefore, the Parties agree to comply with all applicable U.S. export control laws and regulations, including but not limited to the requirements of Arms Export Control Act, 22 U.S.C.2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 CFR 120 et seq.; the Export Administration Act, 50 U.S.C. App. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; and the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, the Party receiving such items agrees that it shall not transfer any export controlled Products, Services, information or technical data, inter alia, to non-U.S. persons, including those foreign persons employed by or associated with, or under contract to the receiving Party, without the authority of an applicable export license, agreement, or applicable exemption or exception and without first obtaining the permission of the other Party. Each Party shall hold harmless, indemnify and defend the other Party and its successors and permitted assigns, and their respective officers, directors, employees, stockholders, agents and affiliates, from and against any and all third-party (including governmental) damages, claims, losses, liabilities and expenses (including without limitation costs of investigating and reasonable attorneys' fees and expenses), which may arise out of the former's non-compliance or violation of applicable export controls laws and regulations.

11.27 ENTIRE AGREEMENT

This Agreement, and any documents referred to herein or executed contemporaneously herewith constitute the Parties' entire agreement with respect to the subject matter hereof and supersede all prior and contemporaneous negotiations, discussions, understandings, agreements, representations, warranties, statements, promises, whether oral or written, with respect to the subject matter hereof.