	<h1>Attollo Engineering</h1>	Document Number:	FRM-072
	<h2>General Terms and Conditions of Sale</h2>	Document Revision:	02
			Approval Date:

1. DEFINITIONS. As used herein: “Seller” means Attollo Engineering, LLC. “Buyer” means the entity to which Seller’s Offer is made or the entity purchasing Goods and/or Services from Seller. “Goods” means the products, parts, materials, and/or equipment included in Seller’s Offer and/or Buyer’s Order. “Services” means services included in Seller’s Offer and/or Buyer’s Order to be performed by Seller. “Offer” means any quotation, bid, or proposal for Goods and/or Services made by Seller to Buyer. “Order” means a purchase order, contract, or similar purchase instrument issued by Buyer to Seller for the purchase of Goods and/or Services.

All references to “Seller’s terms and conditions” herein mean and include (i) the General Terms and Conditions of Sale set forth herein; (ii) Seller’s Special Terms and Conditions, if any, to the extent referenced in Seller’s Offer; and (iii) any other terms and conditions mutually agreed by the Parties in writing. Seller and Buyer are sometimes referred to herein individually as a “Party” and jointly as the “Parties”.

2. OFFERS. Unless stated otherwise in writing by Seller, Seller’s Offer shall be valid for thirty (30) days from the date of such Offer. Any extension to the validity period shall be at Seller’s sole discretion. Seller reserves the right to withdraw and/or revise the Offer at any time during the validity period prior to receipt of Buyer’s unconditional written acceptance of the Offer in its entirety. The prices offered by Seller apply only to the specific details of the Offer, including quantities, specifications, statement of work, and delivery schedules and Seller’s terms and conditions.


3. ACCEPTANCE OF BUYER’S ORDER. Any Order issued by Buyer to Seller for Goods and/or Services, and any amendments thereto, are strictly limited to Seller’s terms and conditions. Buyer’s issuance of an Order in response to Seller’s Offer shall conclusively evidence Buyer’s unconditional acceptance of Seller’s terms and conditions irrespective of any different terms and conditions included in Buyer’s Order, and Seller hereby rejects and shall not be bound by any terms or conditions in Buyer’s Order or other written communications that differ from, add to, or modify Seller’s terms and conditions. Seller’s terms and conditions shall govern and apply to Orders accepted by Seller. Seller’s failure to object to any terms and conditions or any other provisions contained in any communication from Buyer does not waive any of Seller’s terms and conditions specified herein.

4. PRICES. All prices, invoices, and payments shall be in the currency of U.S. Dollars. All prices are exclusive of special packing and packaging, installation, commissioning, and training costs.

5. PAYMENT TERMS. Payment terms are Net 30 days. If applicable, a payment milestone schedule will be negotiated for any anticipated order. Advance payment (prior to commencement of work) totaling 25% of the total order value is required for all purchases of Goods and Services unless Seller, at its sole discretion, extends Buyer credit and communicates such in writing. If extended, such credit will be subject to any limitations, restrictions, or other conditions set by Seller’s Finance Department, will at all times be subject to Seller’s review, and may be revoked by Seller at any time on reasonable grounds, including without limitation Buyer’s late payment, Buyer’s unfavorable credit rating from any credit reporting service, or Buyer’s prospective or actual insolvency. Additionally, for international Orders, as an alternative to advance payment, Seller may require that Buyer provide an irrevocable letter of credit confirmed with Seller’s bank. This amount will be invoiced following Seller’s acceptance of Buyer’s Order.

Buyer must raise any dispute relating to an invoice within fifteen (15) business days of the date of invoice. Buyer shall pay interest on all late payments at a rate equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys’ fees. Also, Seller may, at its sole option and without notice to Buyer, apply any outstanding purchase credits Buyer has with Seller toward any overdue payment. Seller shall further be entitled to suspend the delivery of any Goods and/or performance of Services if Buyer fails to pay any amounts when due, or immediately if Buyer is adjudicated bankrupt, files a petition for bankruptcy, makes an assignment for the benefit of creditors, or if an action under any law for the relief of debtors is taken.

The foregoing remedies for late payment are in addition to all other remedies available under Seller’s terms and conditions or at law, which Seller does not waive by the exercise of any rights hereunder. If Seller at any time determines, in its sole and absolute discretion, that Buyer is not financially sound or responsible or may be unable to pay in full and in a timely manner all amounts

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due to Seller, Seller shall have the right to require immediate payment in full in cleared funds for all Goods and Services already delivered under Buyer's Order. Seller may also require payment in advance prior to making any further deliveries or otherwise continuing work or incurring any further cost. Seller may also reclaim any Goods already received by Buyer on credit upon five (5) days' prior written notice, unless Buyer has misrepresented its solvency to Seller, in which case no notice is required. For the avoidance of doubt, Seller's acceptance of payment for some Goods or Services under Buyer's Order does not prejudice Seller's right to require immediate payment for other Goods or Services included in Buyer's Order.


6. TAXES. Unless expressly stated otherwise in Seller's Offer, all prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such taxes, duties, and charges, provided, however, that Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real property, or other assets. Any taxes (not including income or excess profit taxes) which may be imposed by any taxing authority, arising from the sale, delivery, or use of the articles for which Seller may be held responsible for collection or payment, either on its own behalf or that of Buyer, shall be paid by Buyer to Seller as necessary, or, in lieu thereof, Buyer may provide Seller with an appropriate tax exemption certificate acceptable to the taxing authorities.

7. INSPECTION, TESTING, AND QUALITY ASSURANCE. Buyer shall notify Seller in writing of Buyer's written acceptance goods within ten (10) calendar days after receipt. If Seller has not received notice of Buyer's acceptance within said 10-day period, acceptance shall be presumed. All Goods manufactured by Seller are subject to Seller's standard inspection and quality assurance processes and, if applicable, acceptance testing at Seller's facility. Any additional requirements mutually agreed by the Parties in writing including, without limitation, Buyer's source inspection or additional testing required by Buyer, shall be at Buyer's sole expense. If Buyer requires inspection by Buyer or Buyer's representative at Seller's place of manufacture, such inspection shall be subject to Seller's prior written approval and shall not unreasonably interfere with Seller's operations. When Buyer requests that Seller do so, Seller shall give Buyer at least two (2) business days advance notice of availability of Goods for Buyer's inspection. If Buyer fails to perform such inspection within three (3) business days after said notice is given, or such other period as agreed by Seller, Buyer's inspection shall be deemed to have been waived by Buyer.

8. PACKING AND PACKAGING. All Goods shall be packed and packaged in accordance with Seller's standard commercial packing and packaging methods for domestic shipment. Any nonstandard or special packing or packaging requested by Buyer is subject to Seller's written agreement and shall be at Buyer's sole expense.

9. DELIVERY, SHIPPING TERMS, TITLE, RISK OF LOSS, REJECTION, AND ACCEPTANCE. Seller is responsible for risk of loss or damage while the articles are in the possession of Seller. Buyer is otherwise responsible for risk of loss or damage. Unless agreed otherwise by Seller in writing, shipping terms shall be as expressly stated in Seller's Offer. If Seller's Offer does not specify shipping terms, all domestic shipments shall be delivered FCA Seller's shipping dock (Incoterms 2020) and all shipments to locations outside the United States shall be delivered Ex Works Seller's shipping dock. Risk of loss and title to Goods shall pass upon such delivery. If Seller prepays for shipping, insurance, or other related charges, Buyer agrees to reimburse Seller promptly for such charges. Buyer will promptly inspect all Goods when delivered and Services when performed and will immediately notify Seller of any nonconformance discovered. Buyer shall give Seller a reasonable opportunity to inspect any nonconformances identified by Buyer.

All Goods and Services will be deemed accepted by Buyer unless Seller receives written notice of rejection from Buyer explaining the basis for rejection within five (5) calendar days after delivery or performance, as applicable. Any payment on an invoice for the Goods or Services shall be construed as an acceptance of the Goods and Services referenced in that invoice. If Buyer chooses to reject Seller's Goods or Services, Buyer shall notify Seller of that rejection in writing, and, in the case of Goods, Buyer may return the Goods to Seller no earlier than ten (10) business days following Buyer's written notification of rejection, and in accordance with Seller's written instructions. Goods may only be rejected if not in conformance with the ordered part number or quantity or if out of specification. If Seller determines that there is a nonconformance, Seller will correct or replace the Goods, or re-perform the Services, at Seller's sole option. If Seller reasonably determines that a rejection was improper, Buyer will be responsible for all costs incurred by Seller attributed to the improper rejection, and Buyer will pay these costs immediately upon receipt of Seller's invoice for them. If Seller agrees to source inspection of Goods by Buyer, Buyer must accept or reject the

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Goods before shipment. Buyer waives any right to revoke acceptance once deemed or given. Buyer's remedies under this Section are exclusive and lieu of all other remedies available under Seller's terms and conditions related to rejected Goods or Services.

10. EXPORT COMPLIANCE. All Goods, Services, and technical information provided by Seller to Buyer may be subject to the export control laws and regulations of the United States of America including, without limitation, the International Traffic in Arms Regulation (ITAR) and the Export Administration Regulations (EAR) and may be subject to export and/or import regulations in other countries. Accordingly, Buyer will, as soon as reasonable, certify to Seller the end user and end use for Goods and Services. Buyer agrees and hereby covenants that it will not export or re-export Goods to Cuba, Iran, North Korea, Sudan, Syria, or to any restricted/embargoed country as may be designated from time to time by the U.S. Government unless otherwise authorized by the U.S. Government.


The Buyer shall not transmit, export or re-export, directly or indirectly, any Good or Technical Data (including processes and services) received from Seller:

- a. without first obtaining any applicable license and/or authorization required any and all governments having jurisdiction,
- b. contrary to any applicable embargo or sanction,
- c. to any person or entity where such export, re-export, or provision violates any Prohibited Parties List,
- d. if it is known they will be used in the design, development, production, or use of nuclear, chemical, or biological weapons or missiles, or the systems capable of delivering them,
- e. if it is known they will be used in their entirety or in part, in connection with Weapons of Mass Destruction (WMD) or missiles carrying such weapons; or,
- f. for military purposes in a country subject to a military embargo.

The Buyer will be required to provide Seller any and all documentation (i.e., End Use Certificate, etc.), required to support any Accepted Order subject to issuance of an export license or any documentation to secure the export and/or import of the Product(s), Software and/or Technical Data subject to the Accepted Order. All delivery lead times are subject to timely receipt of the applicable documentation, as well as approval of an export license. Seller reserves the right to not commence manufacture of a Good until the written authority to export that Good has been received.

Buyer further agrees that it will not (i) sell, transfer, export, or re-export Goods for use in activities that involve the development, production, use, or stockpiling of nuclear, chemical, biological weapons, or missiles, nor (ii) use such Goods in any facilities that are engaged in activities related to such weapons or their delivery systems (e.g., ballistic missile systems, space launch vehicles, etc.). Buyer acknowledges that U.S. law prohibits the sale, transfer, export, re-export to, or participation in any export transaction involving Goods with individuals or companies, including but not limited to, those companies, persons, or entities listed in (i) the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List; (ii) the U.S. Department of Treasury's Specially Designated Nationals and Blocked Persons List; or (iii) the U.S. Department of State's Debarred Persons List. Buyer agrees to indemnify and hold Seller harmless from any claims or liability arising from Buyer's failure to comply with all such export control laws and regulations.

Unless otherwise agreed in writing by Seller's authorized representative, Buyer is responsible for obtaining any export licenses and other authorizations required for export of Goods, Services, and technical information, and for completing all related documentation. The Parties agree to provide to each other in a timely manner such information and assistance as may reasonably be required in connection with securing any required authorizations or licenses. The delivery lead times delineated in Seller's Offer and/or Buyer's Order are calculated from the date of receipt of any required export license(s). Seller shall commence work only after receipt of a valid export license(s) from the appropriate U.S. Government agencies or other applicable governmental agencies; provided, however, Buyer may, at its sole risk, authorize Seller to commence work under Buyer's Order prior to receipt of an export license. In such case, Buyer agrees that it is fully liable to Seller for all costs incurred by Seller in the performance of Buyer's Order and shall reimburse Seller for such costs in the event any required export license or authorization is denied or cancelled, or if any restrictions imposed by the issuing agency render continued performance of Buyer's Order

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impossible or impracticable. Any Order accepted by Seller which cannot be fulfilled due to law or regulations or Seller's inability to obtain any required export license(s), may be cancelled by Seller without any further liabilities or obligations to Buyer or Seller.

11. DELIVERY SCHEDULES; APPROVED SOURCES; FORCE MAJEURE. All dates for delivery of Goods and provision of Services are estimates only and are subject to prompt receipt of all necessary and fit for the purpose Buyer-furnished information, instructions, materials, and equipment, if applicable. Buyer agrees that Seller may deliver early. Without limiting the foregoing, Seller's obligation to deliver Goods is, in part, conditioned upon its ability to obtain the supplies necessary to produce the Goods from Approved Sources. "Approved Sources" means sources of supply which Seller has approved under its quality assurance system. If Seller cannot obtain all supplies required to produce the Goods or obtain supplies in sufficient time to meet the scheduled delivery date, Seller may, at its sole option and without any liability to Buyer, either reschedule the delivery, terminate the entire Order, or terminate just that portion of the Order applicable to the Goods which Seller can no longer timely supply. Seller may also have the right to offer substitute Goods in place of any Goods which it can no longer timely supply.


Seller reserves the right to supply Goods which include parts purchased from an Original Equipment Manufacturer (OEM) or its franchised distributor, or which have passed Seller's counterfeit parts screening under its quality assurance system. Seller shall not be liable for delay in delivery or failure to manufacture or failure to complete performance of services attributable to causes beyond its control or occasioned without its fault or negligence. In the event of any such delay or failure, the date of delivery shall be deferred for a period equal to the time lost by reason of the delay or failure. Any delay or failure of Seller to perform its agreed obligations under Buyer's Order shall be excused if such delay or failure is the result of an unforeseeable event or occurrence beyond the reasonable control of Seller, and without its fault or negligence, including, but not limited to, acts of God, actions by any governmental authority, inability to obtain any necessary import or export licenses or other consents, terrorism, fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, supplier delays, labor problems (including lockouts, strikes, and slowdowns), inability to obtain power, utilities, materials, labor, equipment, transportation, or court injunction.

12. CHANGES. Buyer may not suspend performance of an Order, nor reschedule any delivery, except as specifically agreed to in writing by Seller. Buyer may request changes within the general scope of Buyer's Order by providing written notice to Seller; provided, however, such changes shall not be effective unless and until Seller, at its sole discretion, consents to such changes in writing. If any such changes cause an increase in the cost or time required for performance of any part of Buyer's Order, an equitable adjustment shall be made to, including, but not limited to, the price and/or delivery schedule, and the Parties shall execute a written modification to Buyer's Order to reflect such changes.

Seller may make changes to the design of Goods without prior notice and substitute the changed Goods in satisfaction of its performance of an Order, provided that the changed Goods meet the performance specifications of the original Goods. Further, should Seller be required to modify its Goods as a result of or in response to new or changed laws, regulations, rules, or other directives, then Seller shall be relieved of its obligation to deliver the original Goods. If Seller does modify the Goods in response to these new or changed laws, regulations, rules, or other directives, then Seller shall be entitled to an equitable adjustment to the price and extension of the delivery schedule for the modified Goods should Buyer still desire their delivery. This equitable adjustment shall be agreed to by the Parties prior to delivery.

13. ORDER CANCELLATION. Seller, at its sole discretion, may allow Buyer to cancel all or a portion of Buyer's Order for Standard Products or Services if Buyer's notice requesting cancellation is received by Seller at least ninety (90) days prior to the original scheduled delivery date for those Standard Products. If so authorized in writing by Seller, Buyer's cancellation of any Order for Standard Products is subject to Seller's restocking charge of twenty percent (20%) of the Order price. All returned Standard Products must be in new and unused condition. For authorized cancellations of Orders for Services, Buyer shall pay Seller in full for all fully burdened direct and indirect costs incurred by Seller for Services performed, plus a reasonable profit thereon. Seller will notify Buyer of the amount owed, which amount shall be immediately due and payable to Seller.

Orders for Standard Products and Services may not be cancelled within ninety (90) days prior to their original scheduled delivery date. All Orders for nonstandard products are noncancellable and non-returnable, and Buyer is liable for payment of the full Order price for same. Blanket orders, master supply agreements, and similar contractual agreements which are accepted and confirmed by Seller are non-cancellable and Buyer shall pay Seller the full Order value for the balance of quantities not previously

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called off or delivered to Buyer. All such quantities shall be shipped and invoiced no later than the last delivery date or expiration date specified in Buyer's Order and agreed to by Seller.

14. TERMINATION. In the event that Seller determines that Buyer is in breach of a material provision of Buyer's Order, Seller shall notify Buyer accordingly, and Buyer shall immediately pay Seller all amounts owed if Buyer does not cure the breach within the ten (10) day cure period. Seller may also immediately terminate Buyer's Order if Buyer is adjudicated bankrupt, files a petition for bankruptcy, makes an assignment for the benefit of creditors, or if an action under any law for the relief of debtors is taken.


15. LIMITED WARRANTY. Seller warrants that the Goods provided in response to Buyer's order will be free from defects in materials and workmanship for one (1) year from the date of delivery to Buyer. If Buyer believes the Good delivered by Seller is defective, Buyer's written notice of a defective Good must identify the specific Good affected and the nature of the defect, and return the defective Good, suitably packed, and fully insured, transportation and insurance prepaid, in accordance with instructions issued by Seller.

Seller, at its sole option, will either repair or replace any Good authorized for return to Seller which is confirmed to be defective after inspection and testing by Seller, and return such repaired or replaced Good to Buyer. Such repair, replacement, or credit shall be Buyer's sole remedy for defective Goods. Buyer must promptly provide Seller with all information requested regarding the identified defect. If the defect claimed by Buyer cannot be reproduced or otherwise verified by Seller, the Good will be returned to Buyer unmodified at Buyer's expense, and Buyer shall in addition pay Seller's published "no fault found" or test, evaluation, and recertification charges for Seller's effort. The warranty period for repaired or replaced Goods shall be the greater of (i) ninety (90) days or (ii) the unexpired portion of the original warranty period. Under no circumstances is Seller liable for recall, retrieval, removal, dismantling, re-installation, redeployment, or re-commissioning of any defective Goods or any costs associated therewith.

If a Good is subsequently determined to be defective, SELLER SHALL HAVE THE SOLE AND EXCLUSIVE OPTION TO EITHER REPAIR OR REPLACE THE DEFECTIVE PRODUCT. IF SELLER DETERMINES THAT THIS IS NOT SUFFICIENT, SELLER SHALL REFUND ANY MONEY ALREADY PAID BY BUYER TO SELLER, AND SELLER SHALL HAVE NO FURTHER OBLIGATION OR LIABILITY TO BUYER WHATSOEVER. Seller warrants that at the time of shipment, Goods which are designed and manufactured by Seller will conform to Seller's applicable drawings and specifications. Seller further warrants that Goods will be free from defects in materials and workmanship for a limited period of time from the date of shipment. Unless otherwise stated in Seller's Offer, this period is one (1) year. This warranty does not apply to any Goods that, upon examination by Seller, or Seller's authorized service provider, are found to have been (i) mishandled, misused, abused, or damaged by Buyer or any third party; (ii) altered from their original state; (iii) overhauled, refurbished, or repaired by a party other than Seller without Seller's prior written approval; or (iv) improperly stored, installed, operated, or maintained in a manner inconsistent with Seller's instructions. This warranty does not apply to defects attributed to (i) normal wear and tear or (ii) failure to comply with Seller's safety warnings.

SELLER MAKES NO WARRANTY AND DISCLAIMS ALL WARRANTY, STATUTORY OR IMPLIED, FOR CONSUMABLES, INCLUDING ALL BATTERIES, WHETHER A COMPONENT OF ANY GOOD OR SOLD SEPARATELY. SELLER MAKES NO WARRANTY FOR ANY PARTS OR OTHER SUPPLIES PROVIDED TO SELLER BY BUYER, WHETHER OR NOT THEY ARE INCORPORATED INTO GOODS. GOODS SUPPLIED BY SELLER WHICH ARE DESIGNED OR MANUFACTURED BY A THIRD PARTY ARE SUBJECT STRICTLY TO THE THIRD PARTY'S EXPRESS WARRANTY FOR THOSE GOODS. SELLER MAKES NO WARRANTY AND DISCLAIMS ALL STATUTORY OR IMPLIED WARRANTIES FOR THESE GOODS, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FREEDOM FROM PATENT INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. ALL SOFTWARE AND SERVICES, INCLUDING SOFTWARE SUPPORT AND MAINTENANCE SERVICES, ARE PROVIDED ON AN "AS IS" BASIS AND WITHOUT WARRANTY.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, NO WARRANTIES, WHETHER STATUTORY OR ARISING BY OPERATION OF LAW, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO THE GOODS OR SERVICES PROVIDED HEREUNDER. SELLER SHALL IN NO EVENT BE LIABLE TO BUYER, OR ANY THIRD PARTY, FOR ANY DAMAGE, INJURY, OR LOSS, INCLUDING LOSS OF USE, OR ANY DIRECT OR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND.

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THESE EXPRESS WARRANTIES, INCLUDING THE REMEDIES SET FORTH HEREIN AND IN SECTION 16 BELOW, ARE EXCLUSIVE AND ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS INTENDED OR GIVEN. IN THE CASE OF GOODS OTHER THAN THOSE OF SELLER'S OWN MANUFACTURE, SELLER MAKES NO WARRANTIES, EXPRESS, STATUTORY, OR IMPLIED. SELLER MAKES NO WARRANTY AND DISCLAIMS ALL WARRANTY THAT ITS WIRELESS PRODUCTS, INCLUDING WITHOUT LIMITATION ITS WIRELESS QUICK ACCESS RECORDER PRODUCTS, WILL OPERATE ON ANY PARTICULAR NETWORK EXCEPT AS EXPRESSLY STATED IN WRITING BY SELLER; BUYER IS SOLELY RESPONSIBLE FOR DETERMINING WHETHER THESE PRODUCTS ARE SUITABLE FOR ITS PURPOSES.

16. WARRANTY CLAIMS AND REMEDIES. Buyer must promptly notify Seller in writing during the applicable warranty period for a Good of any defect covered by Seller's warranties under the Limited Warranty section herein, and no later than fifteen (15) calendar days after discovery of the defect. Seller has no obligation to honor any warranty claim made after the expiration of the warranty period.


17. SOFTWARE; DATA SERVICES. Goods may contain or be delivered with or provided as digital media which contains software proprietary to Seller or a third party. All software is provided under license only and not as a sale or other transfer of ownership. Except where expressly indicated otherwise within Seller's terms and conditions, "software" shall be deemed to include all electronic or computer programs, in any medium, offered by Seller including, but not limited to, programs developed in performance of an Order, Seller's existing programs, and programs loaded onto or embedded into other Goods, as well as any associated documentation addressing the design, function, installation, use, or maintenance of these programs, such as user guides. Prior to use of any software, Buyer undertakes to accept and be bound by any applicable End User License Agreement (EULA) or other license agreement imposed by Seller or a third party for such software, whether in paper or electronic form, and Buyer has no right or license of any kind to use the software until Buyer executes that agreement.

If the license agreement for the software is in paper form, then Seller shall have no obligation to deliver the software until after that license agreement is executed by Buyer. Software may not be used in, with or in support of any aircraft data acquisition or recording products unless they were designed and manufactured by Seller. In the event of any conflict between the Order and the license agreement for the software, the license agreement takes precedence. Seller has no obligation to provide technical support, maintenance, or other services in support of any software unless these services are either specifically included in an Order or in Seller's standard maintenance agreement for the software. Similarly, in addition to the other requirements set forth in Seller's terms and conditions, Buyer shall execute Seller's standard agreements for any Services offerings included in an Order, including without limitation Services relating to flight operation quality assurance (FOQA), flight data analysis (FDA or FDA+™), data acquisition, data management, data access, data transfer, data delivery, or Cloud-based hosted software applications, and Buyer agrees that Seller's performance of these Services is contingent upon Buyer's execution of Seller's standard agreement. Certain Goods may require separate EULA or Cloud-based hosted software application Services agreements to enable some or all functionalities.

18. TOOLING. Unless agreed otherwise by Seller in writing, all tooling, fixtures, equipment, tools, software, and designs produced, acquired, or used by Seller for the purposes of fulfilling Buyer's Order shall remain the property of Seller.

19. PRODUCTION DISCONTINUATION AND LAST-TIME BUY ORDERS. Seller shall continue to offer Goods for sale provided such Goods (specific part number, model, or family) meet Seller's business criteria established and maintained solely at Seller's discretion. Any Goods that do not or are not expected to meet Seller's business criteria may be eliminated by Seller from its offerings ("Discontinued Goods"). In such event, Seller, at its sole option, may issue last-time buy notices ("Last-Time Buy Notice") to customers who have taken delivery of the affected Goods during the two (2) years prior to the date of such notice.

20. PROPRIETARY RIGHTS. Seller shall retain all right, title, and interest in and to any data, information, software programs, tools, specifications, templates, scripts, ideas, concepts, inventions, works of authorship, products, know-how, processes, techniques, and the like used or developed by Seller, its employees, and its subcontractors in connection with Buyer's Order. Buyer agrees that Seller retains all proprietary rights in and to all products, specifications, designs, discoveries, inventions, patents, copyrights, trademarks, trade secrets, and other proprietary rights relating to Goods or Services. Buyer shall not copy or reverse engineer, or cause or enable any third party to copy or reverse engineer, any Goods. Unless otherwise identified in

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writing to Seller, no information or knowledge heretofore or hereafter disclosed to Seller in the performance of, or in connection with, the terms hereof, shall be deemed to be confidential or proprietary and any such information or knowledge shall be free from restrictions, other than a claim for patent infringement, as part of the consideration hereof.


21. PATENT, COPYRIGHT, AND TRADEMARK INDEMNIFICATION. Unless specified elsewhere in this order, no patent rights, title, or license shall accrue to the Buyer. Seller makes no representation or warranty that articles delivered under this order are free from infringement of any patent not owned by the Seller or under which the Seller is not licensed. Seller shall hold harmless and indemnify Buyer against all third party claims, judgments, costs, and fees, including attorney fees, relating to infringement of any patent, copyright, trademark, or design to the extent that (i) the infringing Goods are manufactured, sold, or used, in whole or in part, pursuant to Seller’s specifications, designs, drawings, or other technical data and (ii) provided that Buyer notifies Seller in writing of any such claim as soon as reasonably practicable, and allows Seller to control, and reasonably cooperates with Seller in, the defense of any such claim and related settlement negotiations and has in no way acted to the prejudice of the Seller’s ability to control and defend such claims.

To the extent that any Goods are held by a court of competent jurisdiction or are believed by Seller to infringe or otherwise violate a third party’s proprietary rights, Seller may, at its option and expense, either (i) modify the affected Goods to be non-infringing; or (ii) obtain for Buyer a license to continue using such Goods on substantially the same terms set forth herein; or (iii) if neither of the foregoing alternatives are reasonably available to Seller, Seller may require Buyer to return the infringing Goods and all rights thereto, and refund to Buyer the price paid to Seller by Buyer for the infringing Goods. Seller shall have no obligation under this provision to the extent any claim is based on (i) modifications of Goods or deliverables by a party other than Seller or Seller’s authorized representative; (ii) the combination, operation, or use of Goods with equipment, devices, software, or data not supplied by Seller; (iii) the use or installation of Goods in an environment for which Goods were not intended; (iv) Buyer’s failure to use updated or modified versions of Goods provided by Seller; or (v) the negligent acts or omissions or willful misconduct of Buyer, its employees, representatives, or affiliates. This Section, and the indemnification provided herein, does not apply to any Goods manufactured, sold, or used, in whole or in part, pursuant to Buyer’s specifications, designs, drawings, or other technical data.

THE FOREGOING CONSTITUTES THE ENTIRE LIABILITY OF SELLER AND BUYER’S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

22. CONFIDENTIALITY. Buyer shall keep confidential and not directly or indirectly disclose to any third party any Confidential Information of Seller, as defined herein, without Seller’s prior written consent. “Confidential Information” includes, but is not limited to, business, financial, statistical, and commercial information, pricing, technical data and information, formulae, analyses, trade secrets, ideas, methods, processes, know how, computer programs, designs, data sheets, schematics, configurations, and drawings. Confidential Information does not include information that (i) is or becomes generally available to the public other than as a result of disclosure by Buyer; (ii) is or becomes available to Buyer on a non-confidential basis from a source other than Seller when such source is not, to the best of Buyer’s knowledge, subject to any confidentiality obligation with Seller; or (iii) was independently developed by Buyer without reference to Seller’s Confidential Information, and Buyer can verify development of such information by written documentation.

23. INDEMNIFICATION. Each Party (the “Indemnifying Party”) agrees to indemnify, defend, and hold harmless the other Party, its officers, directors, and employees (the “Indemnified Party”) from and against any and all liabilities, losses, expenses, liens, claims, demands, and causes of action (“Claims”) for death, personal injury, or property damage arising out of any negligent act or omission of the Indemnifying Party in the performance of Buyer’s Order, except to the extent such Claims are contributed to by (i) the negligence or willful misconduct of the Indemnified Party or (ii) the negligence or willful misconduct of any third parties. Buyer agrees to indemnify, defend, and hold harmless Seller, its officers, directors, and employees for any and all Claims, including Claims asserted by third parties, related to any Goods manufactured or Services performed in whole or in part to Buyer’s designs or attributed to equipment, information, or materials furnished by Buyer to Seller. The Indemnified Party agrees to (i) notify the Indemnifying Party in writing of any Claims as soon as reasonably practicable; (ii) allow the Indemnifying Party to control the defense of any such Claim and related settlement negotiations; and (iii) reasonably cooperate with the Indemnifying Party in such defense.

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24. LIMITATION OF LIABILITY. Seller’s financial liability under any provision(s) of this order shall be limited to a refund of the previously paid portion of the price associated with any supplies or services that have not been accepted. In no event will Seller be liable under the terms of sale beyond the value of the order. Notwithstanding any other provision herein, under no circumstances shall Seller be liable to Buyer or any third party for any consequential, special, incidental, indirect, multiple, administrative, or punitive damages, or any damage of an indirect or consequential nature arising out of or related to Seller’s performance under Buyer’s Order, including, without limitation, failure to meet delivery schedules, loss of use, loss of revenues, loss of anticipated profits, and cost of capital, whether based upon breach of Buyer’s Order, warranty, negligence, or any other type of claim, and whether grounded in tort, contract, civil law, or other theories of liability, including strict liability, even if advised in advance of the possibility of such damages. Seller’s total liability to Buyer arising from or related to Buyer’s Order, including, but not limited to, its liability for indemnity, defense, and hold harmless obligations, is limited to no more than the amount paid by Buyer to Seller under Buyer’s Order. To the extent that this limitation of liability conflicts with any other Section or provision herein, such provision shall be regarded as amended to whatever extent required to make such provision consistent with this Section.

25. LAWFUL USE OF GOODS. Buyer warrants and represents that all Goods and Services purchased by Buyer from Seller shall be used only for or in connection with lawful purposes and that such use shall strictly comply with all applicable laws and regulations, including the laws and regulations of the jurisdictions in which the Goods are purchased, resold, integrated, or used.


26. ETHICS AND VALUES. Seller is committed to uncompromising ethical standards, strict adherence to laws and regulations, and customer satisfaction. Buyer is encouraged to communicate any concerns or questions regarding the ethics and values of Seller.

27. ORDER OF PRECEDENCE. Any inconsistency between Seller’s terms and conditions, Buyer’s Order, or any other documents related thereto, shall be resolved by giving precedence in the following order: (i) Seller’s Special Terms and Conditions (if applicable); (ii) Seller’s General Terms and Conditions of Sale; (iii) Seller’s specifications (if applicable); (iv) statement of work or scope of Services (if applicable); (v) Seller’s written acknowledgement of Buyer’s Order; (vi) Seller’s Offer; and (vii) form of Buyer’s Order.

28. GOVERNING LAW. The performance of the Parties, and any judicial or arbitration proceedings, shall be construed and governed in accordance with the laws of the State of California, United States of America, excepting its laws and rules relating to conflict of law. Neither (i) the United Nations Convention on Contracts for the International Sale of Goods; (ii) the 1974 Convention on the Limitation Period in Contracts for the International Sale of Goods (hereinafter referred to as the "1974 Convention"); nor (iii) the Protocol Amending the 1974 Convention held at Vienna, Austria, on April 11, 1980, apply in any manner to the interpretation or enforcement of Seller’s Offer, or Buyer’s Order.

29. DISPUTES AND ARBITRATION. The Parties shall attempt to resolve any dispute, controversy, or claim arising under or relating to Buyer’s Order, including their interpretation, performance, or termination. If the Parties are unable to resolve such dispute, either Party may refer the dispute to arbitration. The arbitration shall be conducted in English and in accordance with the Commercial Rules of the American Arbitration Association, which shall administer the arbitration and act as appointing authority. The arbitration, including the rendering of the decision and/or award, shall take place in Los Angeles, California, United States of America, and shall be the exclusive forum for resolving the dispute, controversy, or claim. The arbitrator shall make the final determination as to any discovery disputes between the Parties. Examination of witnesses by the Parties and by the arbitrator shall be permitted. A written transcript of the hearing shall be made and furnished to the Parties. The cost of this transcript shall be borne equally by the Parties.

The award or decision of the arbitrator shall state the reasons upon which the award or decision is based and shall be final and binding upon the Parties. The prevailing Party shall be entitled to compensation for the expense of the arbitration, including, but not limited to, the award of attorneys’ fees, at the discretion of the arbitrator. Both Parties waive their right to any appeal under any system of law. The award shall be enforceable before any court of competent jurisdiction upon the application to such court by either Party. The arbitrator shall have no authority to award any of the types of damages excluded hereunder and shall be so instructed by the Parties.

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30. RELATIONSHIP OF THE PARTIES. Each Party is an independent contractor. Neither Party shall have authority to bind the other except to the extent authorized herein. Neither Seller's Offer nor Buyer's Order are intended by the Parties to constitute or create a joint venture, pooling arrangement, partnership, or formal business organization of any kind. The Parties shall act as independent contractors at all times, and neither Party shall act as an agent for the other, and the employees of one Party shall not be deemed employees of the other Party.

31. NO THIRD PARTY BENEFICIARIES. Buyer's Order is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of Seller's terms and conditions.

32. MODIFICATIONS TO ORDER. Buyer's Order may only be modified by written instrument signed by duly authorized representatives of the Parties.

33. NOTICES. All notices, request, consents, claims, demands, waivers and other communications related to Buyer's Order (each, a "Notice") shall be in writing and addressed to the Parties at the addresses set forth on the face of Buyer's Order or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided herein, a Notice is effective only (i) upon receipt of the receiving Party, and (ii) if the Party giving the Notice has complied with the requirements of this Section.

34. ASSIGNMENT. Neither Party may assign, delegate, sublicense, or transfer, whether by operation of law or otherwise, their obligations or rights hereunder without the other Party's written consent and any assignment, delegation, sublicense, or transfer without such written consent is void and of no effect. If consent is given, the obligations and liabilities of Buyer's Order shall be binding upon and inure to the benefit of the successors and assigns of the Parties. Notwithstanding this provision, Seller may subcontract work to be performed under Buyer's Order to third parties or assign Buyer's Order to a parent, subsidiary, or affiliate company of Seller. In addition, without securing such prior consent, Seller shall have the right to assign Buyer's Order to any successor, by way of merger, consolidation, or the acquisition of substantially all of the business and assets of Seller relating to the subject matter of Buyer's Order; provided, however, that such successor shall expressly assume all of the assignor's obligations and liabilities under Buyer's Order.

35. WAIVER; REMEDIES; COSTS. None of the Sections, terms, conditions, or provisions herein shall be waived by any act or knowledge on the part of Seller, except by written instrument signed by a duly authorized representative of Seller. The waiver by Seller of any term, condition, provision, or right hereunder or the failure to enforce at any time any of Seller's terms and conditions, or any rights with respect thereto, is not a continuing waiver or a waiver of any other rights, or of any material breach or failure of performance of Buyer. The remedies herein reserved or created for Seller shall be cumulative, and additional to any other or further remedies provided at law or in equity. Seller may remedy any breach of the terms or conditions hereof without waiving the breach remedied, or without waiving any other prior or subsequent breach. Buyer shall pay all Seller's costs and expenses, including attorney's fees, incurred by Seller in exercising any of its rights or remedies hereunder or enforcing any of the terms or conditions hereof.

36. SEVERABILITY. If any term, condition, or provision herein is invalid, ineffective, or unenforceable under present or future laws, then the remainder of the terms, conditions, and provisions shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

37. PARTIES. The Parties to any Offer, Order, or associated transaction are Seller and Buyer as identified above and unless expressly stated otherwise herein, no other persons, parties, or entities have any rights, or receive any benefits hereunder.

38. HEADINGS. The headings used herein are for reference purposes only and shall not affect the meaning or interpretation of any term, condition, or provision herein.



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39. SURVIVAL. Any Section or provision herein which contemplates performance or observance subsequent to any termination or expiration of Buyer's Order, or which by its nature should survive, shall survive any termination or expiration of Buyer's Order, and continue in full force and effect.