

GENERAL TERMS AND CONDITIONS



CERTCENTERCANADA

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The general terms and conditions contained herein are deemed to and will form part of every purchase order that will be issued to the Vendor by Flight Test Centre of Excellence.

These General Terms and Conditions constitute the entire agreement between the parties hereto and supersede all previous negotiations, representations, undertakings and agreements hereto made between the parties in respect of the subject matter herein and shall not be modified otherwise than by a document in writing of subsequent date hereto duly signed by Flight Test Centre of Excellence. Additional or differing terms, conditions or limitations of liability proposed by Vendor, whether in a quote, acceptance or delivery document shall have no effect unless accepted in writing by Flight Test Centre of Excellence. In particular, any limitation of liability or disclaimer of warranty is expressly rejected.

Every purchase order issued by Flight Test Centre of Excellence will be valid if sent by mail, fax or e-mail and will be binding upon the Vendor upon its acknowledgement sent to Flight Test Centre of Excellence buyer's attention, whether by mail, fax or e-mail. If acknowledgement is not received within five (5) working days of issue of the purchase order, the purchase order will be deemed accepted as is, unless written indication of non-acceptation has been transmitted to Flight Test Centre of Excellence's buyer attention within the previously mentioned five (5) working days period. Agreement by Vendor to furnish the Goods or Services to these terms and conditions, or Vendor's commencement of such performance or acceptance of payment shall constitute acceptance by the Vendor of this purchase order.

1. DEFINITIONS

- a. "FTCE" shall mean Flight Test Centre of Excellence;
- b. Words, as employed in this Contract, shall have their normally accepted meanings. The following terms shall have the described meaning:
- c. "Contract" shall mean the Flight Test Centre of Excellence Purchase Order, these General Terms and Conditions, and any special conditions appended hereto, or documents incorporated herein;
- d. "Goods or Services" shall mean those Goods or Services identified in this Contract, which may be changed, from time to time by the mutual written agreement of the parties; and
- e. "Vendor" shall mean the party identified as the Vendor in this Contract
- f. "Repetitive Defects" shall mean the same defect recurring at least two (2) times within a twelve-month period and within the applicable Goods Warranty relevant period or the inability of a Good to perform its intended use, despite attempts to rectify the defect.

1.1 Vendor

Vendor hereby represents and warrants that the following is true and correct as of the acceptance date of the purchase order, and shall continue to be true and correct throughout the term of a Contract:

- a. Vendor owns, or has a license to use in performing its obligations under a Contract, the Intellectual Property Rights necessary for the performance of its obligations;

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- b. to the best of Vendor's knowledge there is no adverse claim of infringement of any Intellectual Property Right in relation to the Good;
- c. to the best of Vendor's knowledge there is no Intellectual Property Right which precludes the use or sale of the Goods; and
- d. except as specified in the List of controlled and dual use products and technologies, the Goods including any of its components or parts, or any associated technical data, are not controlled or otherwise restricted from use or Export under the ITAR or any other applicable munitions lists under the Wassenaar Arrangement. Without limiting the foregoing, Vendor shall not use munitions lists derivatives or re-designated items without FTCE's prior written approval.

2. PRICE

- a. Unless otherwise specified, the prices established by this Contract are firm fixed prices. Vendor warrants that any unit prices charged herein do not exceed the unit prices charged by Vendor to other customers in substantially similar transactions.
- b. The period during which any applicable discount may be deducted, shall commence from date invoice is received or date material is delivered at destination, whichever is the later date.
- c. In the event that FTCE places additional orders for the parts covered by the purchase order and such orders can be combined for a price advantage, it is agreed that any resulting reduction in price will be applied to this order.
- d. In the event Vendor is liable to FTCE for any amounts, FTCE may, at its election, set-off against any amounts payable to Vendor under this Contract.

3. SCHEDULE AND DELIVERY; NOTICE OF DELAY

Vendor shall strictly adhere to all Contract schedules. Time is and shall remain of the essence in the performance of this Contract. Vendor recognizes that its failure to deliver the Goods or the Services in accordance with the delivery Schedule may cause FTCE to suffer irreparable harm. Therefore, Vendor, notwithstanding any dispute or claim involving FTCE, shall have at all times, the positive obligation to deliver the Goods or Services as required by this Contract and free and clear of any liens, charges or encumbrances. Without in any way diminishing Vendor's obligations under the Contract, Vendor shall immediately notify FTCE, in writing, of any circumstances which Vendor anticipates may cause a delay in delivery by Vendor and the Vendor shall as well notify FTCE in writing of any actual delay in the delivery schedule. Such notification shall state the reasons and estimated period of the delay and the corrective actions being taken by Vendor to prevent or recover from the delay. Such notification shall not constitute a waiver to FTCE's rights and remedies hereunder.

4. SHIPPING

- a. **Packaging:** Goods covered by the purchase order shall be properly packaged by Vendor in accordance with applicable freight classifications standards for shipment to FTCE at destination and unless otherwise specifically provided on the purchase order, price or prices of the Goods therein specified include all costs of packaging.
- b. **Freight Charges:** Freight and express charges must be "FCA" as per Incoterm 2010, unless otherwise instructed. Where Purchase order or Agreement authorizes prepaid charges and Vendor is entitled to reimbursement, the amount must be entered on invoice as a separate line item and the receipted bill attached thereto. Air express, air cargo and rail express shipment documentation must reflect "NO TRANSPORT VALUE DECLARED." Documentation for all other methods of shipment where a released value rate is used must reflect the lowest released value, regardless of the material value.

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- c. Shipping documents:** Material cannot be received or accepted by FTCE until all required documents have been properly executed and received. The following documents must be faxed or emailed no later than the day of shipment:

FOR DOMESTIC SHIPMENTS (GOODS FROM VENDORS IN CANADA):

- (i) Commercial invoices in duplicate;
- (ii) Copies of Packing Slips;
- (iii) Certificates of Compliance, in duplicate as well as TEST reports when applicable; and
- (iv) One copy of Bill of Lading, express receipt or waybill.

FOR IMPORT SHIPMENTS (GOODS SHIPPED FROM VENDORS OUTSIDE CANADA):

In addition to documents mentioned in (i), (ii), (iii) and (iv) above for domestic shipments,

- (v) Canada Customs invoices specifying the country of origin of the Goods, description with material composition, harmonized code, the dollar value and the currency; and
 - (vi) In case of air or surface shipments, four copies of Canada Customs invoice must be attached to the Air Waybill or the Bill of Lading with the following notation: "Canada Customs invoices attached for consignee". One electronic copy, to FTCE, no later than the day of shipment.
- d. Packing slip:** One Packing Slip outside of container and one Packing Slip inside of container must be forwarded with each shipment and must include country of origin for each item deliver to FTCE.
- e. Routing:** Shipment must be made via the route and method specified on the purchase order. Additional costs resulting from a routing other than that specified will be charged to Vendor.
- f. Bill of lading:** Freight description on the Bill of Lading must be in accordance with applicable published freight classification, so as to permit the lowest legal freight rate to be applied. Additional costs resulting from incorrect freight descriptions will be charged to Vendor.
- g. Combining shipments:** Where feasible, deliveries made at the same time against more than one purchase order must be combined in one shipment.
- h. Air Waybill:** FTCE's PO number must appear on AIR WAYBILL OF BILL OF LADING.

5. CONDUCT OF THE WORK

Vendor acknowledges the intrinsic contribution that their Goods or Services make to 3C product and service conformity and safety.

- a. Vendor shall apply to FTCE for any explanation which may be required as to the meaning and intent of any clause in the specifications, terms, conditions and materials of the purchase order and shall be held responsible for any errors or losses consequent upon failure to request such explanation.
- b. With regards to export licensing (commercial export), where the relevant authorities demand document(s) (including end user certificate) from FTCE for processing such application, Vendor shall support FTCE in providing the document(s) promptly as requested. Vendor shall support FTCE to obtain the issuance of such export licenses, import licenses, certificates, permits and/or approvals to meet the agreed delivery schedule.

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- c. Vendor shall be responsible to provide the following to FTCE:
 - (i) New material and parts only. Vendor shall not use repaired or refurbished material or parts;
 - (ii) All materials used during the execution of this Contract by Vendor shall be accompanied by the relevant certification documents; and
 - (iii) Bi-weekly status report showing the progress made during the preceding period against the delivery schedule.
- d. Vendor shall notify FTCE of non-conforming processes, products, or services and obtain approval for their disposition as soon as the non-conformity is found.
- e. Vendor shall notify FTCE of changes to processes, products, or services, including changes of their external providers or location of manufacture, and obtain FTCE's approval.
- f. Vendor shall provide when requested by FTCE, test specimens for design approval, inspection/verification, investigation or auditing.
- g. Vendor shall retain records and tools used for design, development, verification and validation of RTCA DO-178 software for the software lifetime. Other records shall be retained for at least five years from the ending of the purchase.

6. INSPECTION AND ACCEPTANCE

- a. FTCE's final acceptance of Goods or Services is subject to FTCE's final inspection within sixty (60) days after receipt at FTCE's facility or such other place as may be designated by FTCE, notwithstanding any payment or prior test or inspection. Final inspection and acceptance by FTCE do not relieve Vendor from its obligation to supply Goods that meet all specifications.
- b. Vendor and its suppliers shall establish and maintain a quality control and inspection program as specified in the Purchase Order. Subject to applicable security regulations, FTCE and FTCE's representatives shall have the right of access, on a non-interference basis, to any area of Vendor's or Vendor's supply chain sub-tier premises where any part of the work is being performed. Vendor shall flow this requirement down to its sub tier supply chain suppliers as a condition of this Contract. Vendor shall, without additional costs to, provide all reasonable in-plant accommodations, facilities, and assistance for the safety and convenience of FTCE and FTCE's representatives in the performance of their duties. At FTCE's request, Vendor shall send, at its own expense, representatives to FTCE to discuss and review the progress of the work and any other matters pertaining to the purchase order.
- c. Vendor shall keep and maintain inspection, test and related records, which shall be available to FTCE or FTCE's representative. Vendor shall allow copies to be made and shall furnish all information required by FTCE or FTCE's representative. Vendor shall furnish to FTCE written progress reports relating to the purchase order as required by FTCE from time to time.
- d. Independent Distributor's procedures shall have a Quality Management System certified to **AS9100 revision D** dated September 2016 or **ISO 9001:2015(E)** dated September 15, 2015 or is a **Design Approval Organization**. The original manufacturers Certificate of Conformance (C of C) and all traceability documentation shall be included with each shipment of parts. It shall include the manufacturer's name, part number, date codes, lot codes, serializations, and / or any other batch identifications. Seller is to contact Buyer in the event that the original OEM/OCM C of C and traceability documentation is not available. Inspections and tests required are as noted on the Purchase Order. All inspecting and testing shall be performed to the original manufacturer's specifications and parameters. Recorded evidence of all testing performed shall be included with each shipment. If suspect/counterfeit parts are furnished under this purchase order and are found in any of the goods delivered hereunder, such items will be impounded by Buyer. The Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to the Buyer and the Seller shall be liable for all costs relating

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to the removal and replacement of said parts as specified in the purchase order requirements or Distributor's insurance policies. All occurrences of Suspect Counterfeit and/or Counterfeit parts will be immediately reported to the Buyer.

- e. Only new and authentic materials are to be used in products delivered to FTCE. No counterfeit or suspect counterfeit parts are to be contained within the delivered product. Parts shall be purchased directly from the OCMs/OEMs, or through the OCM/OEMs Franchised Distributor. Documentation must be available that authenticates traceability to the applicable OCM/OEM. Independent Distributors (Brokers) shall not be used without written consent from FTCE.
- f. Vendor shall ensure there is no foreign object in product delivered to FTCE.

6.1 Definitions

- a. **Counterfeit** – A part that is a copy or substitute without legal right or authority to do so or one whose material, performance or characteristics are misrepresented.
- b. **Suspect Counterfeit** – A part in which there is an indication that it may have been misrepresented by the supplier or manufacturer and may meet the definition of a counterfeit part.
- c. **OCM** – Original component manufacturer
- d. **OEM** – Original equipment manufacturer
- e. **Franchise Distributor** – A distributor with which the OCM or OEM has a contractual agreement to buy, stock, re-package, sell, and/or distribute its product lines.
- f. **Independent Distributor (Broker)** – A distributor that purchases parts with the intention to sell or redistribute them.

7. REJECTION

If Vendor delivers non-conforming Goods or Services, FTCE may, at its option and Vendor's expense and risk and without prejudice to any other rights to which FTCE may be entitled under the circumstances:

- (i) Return the Goods for refund or credit;
- (ii) Require Vendor to promptly correct or replace the Goods or Services;
- (iii) Correct the non-conformance; or
- (iv) Obtain conforming Goods or Services from another source.

FTCE shall specify the reason for any return or rejection of non-conforming Goods or Services and/or shall describe the action taken. Vendor shall be liable for any increase in costs, including procurement costs, attributable to FTCE's rejection of the non-conforming Goods or Services. As requested by FTCE, Vendor shall prepare and forward technical reports on any rejected item on the same day repair or replacement shipment is made to FTCE or within 14 days of receipt of request from FTCE. Such reports shall contain specific and contributory cause of failure, recommended corrective action, parts used in the repair and all other pertinent data contributing to improving product reliability.

8. INVOICES

- a. Invoices shall bear the purchase order number and line-item number, the part number if any, the description of the Goods, the unit price, the quantity of Goods, the total value stated in the applicable currency, vendor sales tax numbers, packing

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slip number, number of packages, articles or containers shipped and the waybill number and date. Separate invoices, in duplicate must be rendered for each shipment or order and sent to the address specified in each purchase order.

- b. Invoices may be mailed when Goods are shipped, but the time for payment shall not commence until FTCE's actual or scheduled receipt, whichever is later, of items at their destination or upon satisfactory completion of Services.
- c. Errors on, or omissions from invoice, or lack of supporting documentation, required by terms of this order, will be cause for withholding settlement without losing discount privilege. FTCE may also withhold payment for shortages and/or non-conforming Goods or Services.

9. CHANGES

FTCE shall have the right to make changes within the general scope of the purchase order, with respect to quantity, design, method of shipment, place of delivery, or delivery schedule. Such changes shall be effective and binding only if evidenced by a purchase order modification or other formal notification issued by FTCE. If such a change results in an increase or decrease in the cost of, or time required for performance of this order, an equitable adjustment shall be made in the Contract price and/or delivery schedule. Any claim for such adjustment shall be deemed waived by Vendor, unless asserted in writing within fifteen (15) days of receipt of the purchase order modification or other formal notification. Nothing in this clause shall relieve Vendor from proceeding without delay in the performance of the purchase order as changed.

10. STOP, SUSPENSION OR DELAY

FTCE may at any time, by written order to Vendor, ("Stop Order") require Vendor to stop, suspend or delay performance or furnishing of all or any portion of the work called for by this Contract for such period as FTCE in its discretion, determines it would be unwise to continue such performance or furnishing for any reason and the performance or furnishing of the work so ordered to be stopped, delayed or suspended shall only be resumed when FTCE gives Vendor written notice to such effect ("Resume Order"). Any such order shall be specifically identified as a Stop Order. Upon receipt of a Stop Order, Vendor shall promptly comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Order during the period of work stoppage. Within the period covered by the Stop Order (including any extension thereof) FTCE shall either (i) issue a "Resume Order", or (ii) terminate the work covered by the Stop Order in accordance with the termination provisions hereof. In the event the Stop Order is cancelled by FTCE or the period of the Stop Order (including any extension thereof) expires, Vendor shall promptly resume work. Vendor may, if the Stop Order has resulted in a change in the schedule or the cost of performance, submit a claim to FTCE pursuant to the provisions of the Changes clause hereof, but in no event shall such claim include nor will FTCE be liable for any loss or damage for loss of anticipated profit, economic, incidental, indirect, consequential, or punitive damages because of any stop, suspension or delay.

11. TERMINATION

- a. FTCE, by giving written notice to the Vendor, may terminate the purchase order with respect to all or any part or parts not completed. Upon termination notice being given, the Vendor shall cease work in accordance with and to the extent specified in such notice and limit costs incurred on the terminated work.

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- (i) All finished work whether completed before giving of such notice or completed thereafter pursuant to such notice, shall be paid for in accordance with the Contract on the basis of the Contract price.
- (ii) In respect of work not completed before giving of such notice and not completed thereafter pursuant to such notice, the Vendor shall be entitled to be reimbursed the actual cost to the Vendor of such incomplete work and to receive in addition an amount representing a fair and reasonable profit in respect of work done thereon.

However, no payment shall be made in respect to work which has been or may be rejected after inspection as not complying with the requirements of the Contract. In no case shall Vendor be entitled to be reimbursed any amount which, taken together with any amounts paid or due or becoming due to Vendor under the purchase order, shall exceed the total amount payable for the work to be performed under the purchase order. Upon termination notice being given, FTCE shall have all rights and obligations accruing to it either at law or in equity, including FTCE's rights to title and possession of the Goods and materials paid for. FTCE may take immediate of all work so performed upon notice of termination.

b. In addition to FTCE's right to terminate as herein before provided:

- (i) If the Vendor is in default in carrying out any of the terms, conditions, covenants or obligations of the Contract, or if the Vendor becomes bankrupt or insolvent, or any proceedings are commenced against the Vendor under the Bankruptcy Act or any similar statute or law, or makes an assignment for the benefit of creditors, or if any order is made or resolution passed for the winding up of the Vendor, or if the Vendor takes the benefit of any law or statute for the time being in force relating to bankrupt or insolvent debtors, FTCE may, by giving notice in writing to the Vendor terminate the whole or any part of the Contract. In such event the Vendor shall reimburse any advance payment made by FTCE and the Vendor shall not be entitled to the payment of any costs or profit or any portion thereof with respect of any of the work not completed by the Vendor in accordance with the terms of the Contract at the time of said notice in writing to Vendor.
- (ii) If the Vendor is behind the delivery schedule during the performance of its work under the Contract, FTCE reserves its rights to obtain compensation from the Vendor should FTCE suffers any damages from and/or incurs any costs and expenses in relation with said delay. In the event that FTCE terminates the Contract in accordance sub-paragraph (b) (ii) herein, FTCE will still be entitled to claim the damages and costs and expenses stated herein.
- (iii) In the event that FTCE terminates the Contract in whole or in part as provided in the preceding paragraph (i) and (ii), FTCE may procure, upon such terms and in such manner as FTCE may deem appropriate, Goods or Services similar to those terminated, and the Vendor shall be liable to FTCE for any excess costs for such similar Goods or Services.

c. Upon termination of the Contract under this clause, FTCE may direct the Vendor to transfer title and deliver to FTCE, in the manner and to the extent directed by FTCE, any finished work which has not been delivered and accepted prior to such termination and any materials, parts, work-in-process, tools or information which the Vendor has specifically acquired or produced for the fulfilment of the Contract. Vendor further agrees to protect and preserve property in possession of Vendor in which FTCE has an interest. FTCE shall reimburse the Vendor for the reasonable and actual cost to the Vendor of all materials, parts or work-in-process delivered to FTCE pursuant to such direction and determined in accordance with the Contract price, subject to the deduction of any claim FTCE may have against the Vendor arising under the Contract or out of the termination.

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- d. Vendor shall have no claim for any damages whether economic, incidental, indirect, consequential, punitive or otherwise or for any compensation, loss of profit or other allowance arising out directly or indirectly of any action taken or notice given by FTCE under or pursuant to the provisions of this clause.

12. COMPLIANCE WITH LAW

- a. Vendor shall comply with all applicable provisions of Federal, Provincial, and local laws; ordinances and all lawful orders; rules, regulations.
- b. Vendor shall control the dissemination of and access to technical data, information and other items received under this Contract in accordance with Canadian and U.S. export control laws and regulations.
- c. Vendor shall respect all ITAR regulations that may be applicable to the PO.
- d. Canadian Vendor's shall, prior to receiving, examining, possessing Controlled Goods, be registered under the Canadian Controlled Goods Program (CGP).

13. ETHICAL STANDARDS OF CONDUCT

Vendor shall neither receive nor give any gifts or gratuities in connection with this Contract. Vendor's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities. Vendor shall not participate in any unethical conduct during performance of this Contract. Vendor shall not engage in any personal, business, or investment activity that may be defined as a conflict of interest, whether real or perceived.

14. PROPRIETARY INFORMATION

- a. All specifications, information, data, drawings, software and other items supplied to FTCE shall be disclosed to FTCE without any restrictive rights on a non-proprietary basis.
- b. All plans, drawings, specifications and other information, patterns, dies and other tools supplied by FTCE or paid for by FTCE during the performance of this Contract and any information derived therefrom, shall be kept secret and confidential by Vendor and shall not be disclosed to any third party, without prior written consent of FTCE or made use of by Vendor, except for the purpose of executing the work hereunder. All such plans, drawings, specifications and other information, patterns, dies, and other tools will remain the property of FTCE and will be returned by Vendor to FTCE upon request. When requested by FTCE, the Vendor shall execute a Non-Disclosure Agreement within (30) days following FTCE's request.

15. INTELLECTUAL PROPERTY

- a. Any work, writing, idea, discovery, improvement, invention (whether patentable or not), trade secret or intellectual property of any kind first made or conceived by Vendor in the performance of this Contract or which is derived from the use of information supplied by FTCE shall be the exclusive property of FTCE. Vendor shall disclose promptly all such works, writings, ideas, discoveries, improvements, inventions, trade secrets or intellectual property to FTCE, and shall execute all

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necessary documents to perfect FTCE's title thereto and to obtain and maintain effective protection thereof. Any work produced under this Contract shall be assigned to, and shall be the exclusive property of FTCE.

- b. Vendor hereby grants to FTCE in connection with the use, offer for sale, or sale of products provided to or work being performed for FTCE, an irrevocable, perpetual, nonexclusive, paid-up, world-wide license under any and all Intellectual Property (whether domestic or foreign), including patents, copyrights, industrial designs and/or mask works owned or controlled by Vendor at any time or licensed to Vendor and the right to sublicense such rights to its sub-contractors, customers and ultimate end-user solely for FTCE performance of its prime contract.
- c. Vendor hereby grants to FTCE a perpetual, non-exclusive, paid-up, world-wide license to reproduce, distribute copies of, perform publicly, display publicly, or make derivative works from any software included in or provided with Goods or Services under this Contract (Software Documentation) as reasonably required for FTCE performance of its prime contract and the right to sublicense such right to FTCE's sub-contractors, customers and ultimate end-user only to the extent necessary for their use of the Goods and Services.

16. GOODS WARRANTY

- a. Vendor warrants the Goods against defects in title, workmanship, materials and/or design and that the Goods are designed to fit the intended purpose of the purchase, to the extent that such materials and/or design have not been supplied by FTCE. Vendor hereby accepts that the warranty may be extended by FTCE to its customers, ultimate end users and their respective successors and assigns. The warranty as to workmanship and/or materials not supplied by FTCE shall remain in effect up until 24 months after delivery of the Goods to the ultimate end-user. If any Goods fail to comply in any respect of the warranty set forth above, the Vendor shall promptly make all repairs, modifications or replacements (the "Corrections") necessary to enable such Goods to comply in all respects with said warranty or promptly allow FTCE to make or have a third party make all Corrections necessary to enable such Goods to comply in all respects with said warranty and recover the estimated cost of such Corrections from Vendor. In addition to the actual cost of any Correction, Vendor shall bear the return Transportation and insurance costs for Goods corrected pursuant to the provisions of this warranty.
- b. That portion of any Goods to which a Correction has been made by Vendor under this warranty, shall be warranted by Vendor:
 - (i) In a case of repair or modification, for the unexpired portion of the warranty remaining at the time of such Corrections, or 12 months after the date of such repair or modification whichever period is greater; and
 - (ii) In case of replacement, for up to 24 months following installation of the replacement Goods on the ultimate end-user aircraft or for the unexpired portion of the, whichever period is greater.
- c. The warranty herein on Vendor's Goods that have been corrected by FTCE or a third party as referred to above shall remain in effect as if Vendor's product was repaired and corrected by Vendor provided, however, that Vendor shall not be held liable for defect or failures attributable to misuse, negligence or improper correction by FTCE or such other third party. Vendor hereby acknowledges that FTCE does not waive or accept any disclaimer of any such warranties.
- d. In the event of Repetitive Defects related to the Vendor's Goods, malfunctions or premature deterioration, Vendor shall take the appropriate measures to eliminate such defects no later than thirty (30) Days after notification by FTCE. Vendor hereby agrees to the costs in accordance with herein article. Vendor shall prepare and forward technical reports to FTCE on any defective Good within forty-eight (48) hours of receipt of the notification. Such reports shall contain specific and

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contributory causes of failure, recommended corrective action, Goods used in the Corrections and all other pertinent data contributing to improving Good reliability.

17. SERVICES WARRANTY

Unless stated otherwise in the documents accompanying these terms and conditions, Vendor shall warrant all Services against defects in performance for a period of one year following delivery. If this Contract includes the provision of Services, Vendor warrants that it has and will maintain sufficient trained personnel to promptly and efficiently execute the Services contemplated under this Contract. Vendor further warrants that the Services shall be performed to at least the standard of performance reasonably expected of similar service providers in FTCE's geographic area.

18. INTELLECTUAL PROPERTY WARRANTY

Vendor warrants that the sale, offering for sale, use, or incorporation into manufactured Goods and materials (including software) of all machines, parts, components, services, devices, material, and rights furnished or licensed hereunder which are not of FTCE's design, composition, or manufacture does not and will not infringe any valid patent, copyright, trademark, or other proprietary or intellectual property rights.

19. INDEMNIFICATION

- a. Vendor shall indemnify, hold harmless, and at FTCE's request, defend , its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorney's fees and cost of suit arising out of or in any way connected with the Goods or Services provided under this Contract, including, without limitation: (i) the breach of any warranty contained herein; (ii) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean-up costs; (iii) any claim based on the negligence, omissions or wilful misconduct of Vendor or any of Vendor's agents, subcontractors, employees or anyone acting on behalf of Vendor; and (iv) any claim by a third party against FTCE alleging that the Goods or Services (including but not limited to software), the results of such Services, or any other products or processes provided under this Contract, infringe a patent, copyright, trademark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other products, software or processes. Vendor shall not settle any such suit or claim without FTCE's prior written approval. Vendor agrees to pay or reimburse all costs that may be incurred by FTCE in enforcing this indemnity, including attorney's fees.
- b. Should FTCE's use, or use by its distributors, subcontractors or customers, of any Goods or Services purchased from Vendor be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Vendor shall, at its sole cost and expense, either: (i) substitute fully equivalent non-infringing Goods or Services; (ii) modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality; (iii) obtain for FTCE, its distributors, subcontractors or customers the right to continue using the Goods or Services; or, (iv) if none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

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- c. Vendor shall without limitation as to time, defend, indemnify and hold FTCE harmless from all liens which may be asserted against property covered hereunder and from all claims for injury to persons or property arising out of or related to such property unless the same are caused solely and directly by FTCE's negligence.

20. INSURANCE

If the Contract is for the performance of Services on FTCE's premises or FTCE's customer's or ultimate end-user premises, or, Vendor utilizes their own vehicles to deliver Goods to FTCE's facility, Vendor shall maintain the following insurance in at least the minimum amounts stated herein. Vendor shall also maintain such general liability, property damage, employers' liability, and worker's compensation insurance, professional errors and omissions insurance, motor vehicle liability (personal injury and property damage) insurance and aviation liability as are maintained in their normal and ordinary course of business. Upon request by FTCE, Vendor shall provide certificates of insurance evidencing limits of no less than the following:

- (i) Commercial General Liability \$5,000,000 combined single limit per occurrence (including products/completed operations and contractual liability coverage);
- (ii) Workers' Compensation Statutory for the jurisdiction where the work is to be performed, including Federal Acts if applicable Employers' Liability, \$1,000,000 each person/accident. In states where Workers' Compensation insurance is a monopolistic state-run system (e.g., Ohio, Washington, North Dakota, and Wyoming), Vendor shall add Stop Gap Employers Liability with limits not less than \$500,000 for each accident or disease. To the extent that any work to be performed is subject to the Jones Act, the Longshore and Harbor Workers' Compensation Act, or the Defense Base Act, the Workers' Compensation policy must be endorsed to cover such liability under such Act; and
- (iii) Automobile Liability \$5,000,000 combined single limit per accident.

21. RELEASE OF INFORMATION

Vendor shall not publish any information developed under this Contract, nor disclose, confirm, or deny any details about the existence or subject matter of this Contract, or use FTCE's name in connection with Vendor's sales promotion or publicity without FTCE's prior written approval.

22. DISPUTES

The provision of this Contract shall be interpreted in accordance with the laws of the province of Quebec and in accordance with its fair meaning and not strictly against either party. Pending final resolution of a dispute hereunder, Vendor shall proceed diligently with the performance of this Contract and in accordance with all the Terms and Conditions contained herein and with FTCE's direction thereof. FTCE and Vendor shall each bear its own costs of processing any dispute hereunder.

In the event of a conflict between these Terms and Conditions and other portions of the Contract, the order of precedence shall be: (a) any typed provisions on the face of FTCE's purchase order specifically modifying the terms of this Contract; (b) these Terms and Conditions; and (c) any other provisions set forth in FTCE's Purchase Orders including any terms and conditions stated or referenced therein.

GENERAL TERMS AND CONDITIONS

23. SUBCONTRACTING

Vendor shall not assign the purchase order or sublet any of the work contained in the purchase order, without the prior written consent of FTCE, other than to the extent which subletting is necessary for the purpose of obtaining raw material, parts and processes, for which Vendor is not equipped and which are portions of the work normally sublet in carrying out similar contracts. No consent shall not be deemed or relieve Vendor of its obligations to comply fully with the requirements hereof.

24. COMMUNICATION WITH CUSTOMERS

FTCE shall be solely responsible for any and all communication with FTCE's customer regarding this or any related contract.

25. AUDIT RIGHTS

FTCE reserves the right to audit Vendor's records to assure compliance with the terms of this Contract. Vendor shall make available all data reasonably requested by FTCE.