

TERMS AND CONDITIONS OF PURCHASE

AIRBUS AUSTRALIA PACIFIC LIMITED AIRBUS AUSTRALIA PACIFIC (NZ) PTY LIMITED

These Terms and Conditions of Purchase shall be read with and form part of the Order to which they relate.

“**Buyer**” means AIRBUS AUSTRALIA PACIFIC LIMITED ABN 68 003 035 470 and AIRBUS AUSTRALIA PACIFIC (NZ) PTY LIMITED ABN 71 050 050 756, as shown in the Order.

“**Supplier**” means the person, company, government or other entity described in the Order and includes their personal representatives, survivors and permitted assigns.

“**End User**” means any end-user of the Deliverables.

“**Background Intellectual Property**” means intellectual property rights of the Supplier or a third party which have not been created as part of, or for the purpose of, providing the Deliverables under the Order and are identified in writing by the Supplier to the Buyer prior to their disclosure as such.

“**Correctly Labelled**” means a label affixed to a Hazardous Chemical or its container that complies with the requirements in Part 3 of schedule 9 of the *Work Health and Safety Regulations 2011* (Cth) or as otherwise defined pursuant to comparable legislation.

“**Data**” means all know-how and information reduced to material form produced, acquired or used in relation to the Deliverables and includes all data, databases, manuals, handbooks, designs, standards, specifications, reports, writings, models, sketches, plans, drawings, calculations, software, source code, software design data, test results, software and software updates and other items describing or providing information relating to the Deliverables or their use, operation and maintenance.

“**Deliverables**” means the Goods and Services.

“**Equipment**” means the items made available by the Buyer to the Supplier to enable the Supplier to provide the Services in relation to the Equipment.

“**Export Laws and Regulations**” means any Australian, New Zealand, or foreign law or regulation governing the export of an item or thing.

“**Foreground Intellectual Property**” means intellectual property rights which are not Background Intellectual Property and which have been created as part of, or for the purpose of, providing the Deliverables under the Order.

“**Goods**” means the articles, products, materials, items, parts, components, assemblies, tools or any item described in the Order.

“**GST Act**” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (where the Order originates from Australia) or *Goods and Services Tax Act 1985* (NZ) (where the Order originates from New Zealand).

“**Hazardous Chemical**” means a hazardous chemical as defined in schedule 19 *Work Health and Safety Regulations 2011* (Cth) or as otherwise defined pursuant to comparable legislation.

“**Order**” means the purchase order of which these Terms and Conditions of Purchase form part, raised by the Buyer for the provision of the Deliverables.

“**Safety Data Sheet**” means a safety data sheet prepared under regulation 330 or 331 of the *Work Health and Safety Regulations 2011* (Cth) or as otherwise defined pursuant to comparable legislation.

“**Services**” means the work, activities or labour provided or applied to Equipment as described in the Order.

“**Terms and Conditions of Purchase**” means these terms and conditions.

1. PURCHASE ORDER: The Order constitutes the Buyer's offer to purchase Deliverables. By accepting the Order, the Supplier agrees to supply the Deliverables according to the Terms and Conditions of Purchase. No Supplier issued terms and conditions, confirmation, delivery document, payment advice or subsequent representation (unless agreed in writing by the Buyer) will form part of the Order. In the event of inconsistency between the documents forming part of the Order, precedence will be given first to the purchase order, secondly to any special conditions expressly contained within the purchase order, and thirdly to these Terms and Conditions of Purchase, to the extent of the inconsistency. Unless expressly stated to the contrary, the prices set out in the Order are inclusive of all costs incurred by the Supplier including but not limited to packaging, insurance and delivery of the Goods or items used or supplied in the performance of the Services. Variations to the Order must be in writing signed by both parties.

2. PERFORMANCE OF THE CONTRACT: The Supplier will deliver the Deliverables at the time and place specified in the Order. The Supplier will ensure that the Deliverables comply with these Terms and Conditions of Purchase, and special conditions specified in the Order (if any).

3. PACKAGING: No charges will be paid by the Buyer for transportation packing or returnable containers unless otherwise stated in the Order. All shipments must be packaged appropriately for the method of transportation and to protect the specialist nature of the Goods or Equipment and must conform to the Buyer's packaging specifications in the Order (if any). The Supplier will be responsible for any loss, damage or expenses incurred by the Buyer due to packaging which is not in accordance with the requirements of this clause. The Supplier shall, where appropriate, affix to the outside of each package in a waterproof envelope relevant documents as required by governmental shipping instructions.

4. DELIVERY: All Goods and Equipment delivered by the Supplier are to be delivered to the delivery location by the delivery date specified in the Order. The Supplier will deliver the Goods and Equipment with appropriate documentation that identifies the Order, Goods and Equipment. All Goods and Equipment containing aeronautical product are to be supplied with a certificate of conformance or other relevant certificate as specified on the Order, which complies with all relevant airworthiness requirements. At the time of delivery of the Goods or the provision of the Services, the Supplier will certify in writing that the Deliverables comply with the requirements of the Order.

5. ACCEPTANCE: Deliverables provided by the Supplier are subject to acceptance by the Buyer. The Buyer will, within 30 days of receiving the Deliverables from the Supplier, accept or reject the Deliverables advising the Supplier in writing of the reasons for the rejection. Where the Buyer rejects the Deliverables as not conforming to the requirements of the Order, the Supplier will, within 10 days of receipt of the rejection notice, provide the Buyer with notice, detailing its proposed remedy in full. The Buyer will within 10 days of receipt of the notice:

(a) instruct the Supplier in writing to complete any course of action proposed by the Supplier within a specified time; or

(b) issue a notice of rejection of the Supplier's proposal and direct that:

(i) the Supplier submit an alternative proposal within 10 days of that notice; or

(ii) pay the Buyer's reasonable charges calculated at rates and prices comparable to aircraft industry standards for the Buyer to complete the work necessary to rectify the Deliverables so that they comply with the Order.

The Supplier will bear all costs associated with replacing or correcting the rejected Deliverables.

6. APPROVALS BY THE BUYER: Approval by the Buyer of any Deliverables or of any designs, drawings, specifications or other documents prepared by the Supplier will not relieve the Supplier of any of its obligations under the Order, or excuse or constitute a waiver of any defects or noncompliance of any Deliverables furnished under the Order.

7. SPECIFICATIONS: All Deliverables ordered to the Buyer's specifications shall comply with such specifications current as of the date of the Order, unless otherwise expressly specified in the Order. All Goods provided by the Supplier in provision of the Deliverables must be as factory new or new item supplied from the original equipment manufacturer or new manufacture from the approved true manufacturer, unless otherwise expressly stated in the Order.

8. PASSING OF TITLE AND RISK: Title to the Goods and risk of loss or damage to the Goods will pass to the Buyer upon delivery of the Goods unless otherwise expressly specified in the Order.

9. PAYMENT: The Supplier must issue an itemised and correctly rendered tax invoice for the Deliverables in accordance with the Order, and send its invoice to the address for invoices specified on the Order.

The Buyer will pay the Supplier's tax invoice on the 10th day of the calendar month which follows the period of 'n' days from the end of the month in which the invoice is received by the Buyer (where 'n' is specified in the Order in the form 'nEOM10'). Where 'n' is not specified in the Order, 'n' will be deemed to be 30 (i.e. 30EOM10), except to the extent that the tax invoice is in dispute. If the date on which payment is payable falls on a Saturday, Sunday or a public holiday then the payment shall be made on the following business day. An invoice is correctly rendered if:

(a) the amount claimed is due for payment;

(b) the amount specified in the invoice is in accordance with the prices or rates specified in the Order;

(c) the invoice provides sufficient description of the Deliverables that have been supplied and to which the invoiced amount relates;

(d) the invoice is addressed to the Buyer and identifies the relevant contract, certificate of conformance/ release certificate number, the relevant Order, item number and a description and quantity of those goods; and

(e) if GST is payable in respect of the provision of the Deliverables, the invoice is a tax invoice which is fully compliant with the GST Act.

In addition to the price, the Buyer will pay an amount equal to the GST on the supply of the Deliverables as itemised.

Unless otherwise specified in the Order, all payments will be made by electronic bank transfer to the Supplier's bank account, as notified to the Buyer.

10. FAILURE TO DELIVER: If the Supplier fails to deliver the Deliverables in accordance with the Order, the Buyer reserves the right to cancel the Order or any part of the Order without prejudice to its other rights, and the Supplier agrees that the Buyer may return all or any part of the Goods so far delivered and may charge the Supplier for any loss, damage or expense sustained as a result of the failure to deliver the Deliverables.

11. PROCEDURES FOR DELAY: If the Supplier becomes aware that the delivery may be delayed, the Supplier will within 5 days of becoming aware of the delay notify the Buyer in writing. The Buyer's notice must detail the nature of the cause of the delay, the anticipated extent of the delay, the steps being taken to alleviate and otherwise deal with the delay and the cause of the delay, and the revised delivery date. The Buyer will within 5 days of receiving the Supplier's notification either, accept the revised delivery date, negotiate an alternate delivery date with the Supplier, or exercise its rights under Clause 10.

12. FORCE MAJEURE: A party will not be liable for any delay or failure to perform its obligations pursuant to the Order, to the extent that such delay or failure is caused or contributed to by war, whether declared or not, acts of terrorism, insurrection, strikes, fire, inclement weather, government restrictions or for any other cause which is beyond the reasonable control of the party.

13. CARE, CUSTODY AND CONTROL OF EQUIPMENT AND/OR DATA: The parties acknowledge that the Equipment and Data provided by the Buyer to the Supplier (if any) is furnished for the purpose of enabling the Supplier to perform its obligations under the Order. Care, custody and control (including the obligation to comply with any Defence security requirements) of Equipment and Data

provided by the Buyer to the Supplier will pass to the Supplier on delivery to the Supplier or on the Supplier taking care, custody or control (whichever is sooner) and continues until it is redelivered to the Buyer or returned to the Buyer's care, custody or control (whichever is sooner). Equipment and Data supplied by the Buyer will remain the Buyer's property, and the Supplier must ensure that Data is treated as the Buyer's confidential information by the Supplier and the Supplier's officers, agents, and employees. Data must not be reproduced, used or disclosed to others by the Supplier without the Buyer's prior written consent. The Supplier must protect Equipment and Data from loss or damage howsoever arising whilst they are in the Supplier's possession or under its custody, care or control and it accepts responsibility for any such loss or damage. The Supplier must notify the Buyer of any loss or damage of Equipment or Data within 2 days of the Supplier becoming aware of the occurrence of such loss or damage. The Buyer shall not be liable for any personal injury or death of the Supplier, its employees or sub-contractors, or any loss or damage to the property of the Supplier its employees or sub-contractors, arising in any way out of any defect in any Equipment or Data provided to the Supplier. Equipment and Data provided by the Buyer to the Supplier, must be returned to the Buyer on demand or on completion of the Order (whichever is sooner) in the same or better condition as when the Supplier took receipt of the Equipment or Data. Data which the Supplier may disclose to the Buyer with respect to the design, manufacture, sale or use of the Services covered by the Order, except where specifically marked as 'Confidential Information', shall be deemed to have been disclosed as part of the consideration for the Order and the Supplier will not assert any claim against the Buyer for breach of confidentiality by reason of the Buyer's use of that Data.

14. ASSIGNMENT AND SUBCONTRACTING: The Supplier must not assign its rights under any Order, or sub-contract any activities in relation to the Order, without the Buyer's prior written consent. . The granting of consent by the Buyer to engage sub-contractors will not be construed as relieving the Supplier of its obligations under the Order. The Supplier must stipulate in all sub-contract orders entered pursuant to this Order, that the Buyer is granted access to sub-contractor's facilities and data, records and material to the same extent as the Buyer may have in relation to the Supplier under clause 18.

15. WARRANTY: The Supplier warrants for a period of 12 months following the Buyer's acceptance under clause 5, that despite any inspection of the Deliverables by the Buyer, the Deliverables are of merchantable quality, comply with the requirements of the Order and to the Data, are fit for the purposes for which the Deliverables are intended to be used by the Buyer, free from all defects (including latent defects) and deficiencies, whether in design, performance, materials or workmanship, and correspond with any samples supplied by the Supplier to the Buyer (if any). The Buyer may by written notice to the Supplier, make a warranty claim in relation to all or any of the Deliverables (including Deliverables with latent defects) within 30 days of discovery of the non-compliance, defect or deficiency. Where a claim is made by the Buyer, the Supplier shall, within 20 days of receipt of the claim:

(a) notify the Buyer to return the Goods or Equipment to the Supplier at the Supplier's expense and correct the non-compliance, defect or deficiency at the Supplier's expense;

(b) replace the Deliverables or relevant parts with replacement Deliverables or parts of similar value, useful life and make to the Buyer's satisfaction and deliver these to the Buyer at the Supplier's expense; or

(c) pay the Buyer reasonable charges calculated at rates and prices comparable to aircraft industry standards for repairs required for the Buyer's correction of the non-conformance, defect or deficiency.

16. INTELLECTUAL PROPERTY: Ownership of all Foreground IP vests on its creation exclusively in the Buyer. The Supplier will do whatever is necessary to give effect to that vesting. Nothing in this Order affects ownership of Background IP. Except to the extent set out in the Order, the Supplier grants to the Buyer a non-exclusive, perpetual, worldwide and royalty free licence (including the right to sublicense) to use, maintain, modify, and dispose of any Background IP embodied in the Deliverables.

17. INDEMNITY: The Supplier indemnifies and holds harmless the Buyer, along with its officers, agents, employees, subcontractors, successors, assignees, customers and users of the Deliverables, against loss, damage or expense incurred on account of any claim, judgment or demand:

(a) arising out of or in connection with the Supplier's performance of the Order, including in relation to any Deliverables, except to the extent that such loss, damage, or expense was caused or contributed to by the Buyer; or

(b) involving infringement or alleged infringement of any intellectual property rights in the manufacture, use or disposition of the Deliverables.

The Buyer will notify the Supplier of any suit instituted against the Buyer in relation to this clause 17.

18. ACCESS, AUDIT AND RECORDS: The Supplier grants the Buyer access at all reasonable times to the Supplier's premises and non-financial data, records or material relevant to the performance of the Order for the purposes of inspecting Buyer property and data and performing audit and surveillance activities in connection with the Supplier's compliance with the requirements of the Order. The Supplier must retain all records relating to the Order for a period of no less than seven (7) years following completion of the Order.

19. EFFECT OF INVALIDITY: The invalidity in whole or in part of any provision of these Terms and Conditions of Purchase will not affect the validity of any other provision.

20. TERMINATION: The Buyer may by 7 days written notice to the Supplier at any time for its convenience, terminate the Order in whole or in part. On termination, the Buyer will be liable to pay for any work completed in fulfilment of the Order by the Supplier as at the date of termination in accordance with these Terms and Conditions of Purchase.

21. DISPUTES: Any disagreement arising out of or in connection with an Order that is not settled by agreement within 1 month of its notification by either party, may be settled by appropriate legal proceedings. Each party will continue to perform its obligations under the Order despite the existence of a dispute or any proceedings under this clause.

22. RIGHTS, REMEDIES AND WAIVER: The rights and remedies provided to the Buyer in these Terms and Conditions of Purchase will be cumulative and in addition to any other rights and remedies provided by law or equity. A waiver of a breach of any provision will not constitute a waiver of any other breach.

The laws of the state, territory, or country shown in the Buyer's address on the Order will apply to the Order. The parties hereby submit to the non-exclusive jurisdiction of the courts of that state, territory, or country.

23. TAXES, DUTIES, AND OTHER CHARGES: The Supplier assumes exclusive liability under all laws that impose taxes (other than GST), duties, or charges arising out of or in connection with the Order and must pay any and all such taxes, duties, and charges, except those the Buyer agrees in writing or is by law required to pay itself, and which are separately stated on the invoice.

24. SUPPLY OF DELIVERABLES: The Supplier must:

- (a) not interfere with activities at the Buyer's delivery address;
- (b) be aware of and comply with all applicable laws, all site standards and procedures and any lawful direction given by the Buyer to the Supplier;
- (c) ensure the Supplier performs in a safe manner, is properly qualified and skilled in performance of their task not to prejudice safe work practices, safety and care of property and continuity of work; and
- (d) provide information and assistance required by law or in the connection with any Workplace Health, Safety and Environment investigation.

25. EXPORT CONTROL: On receipt of the Order the Supplier shall identify any part of the Deliverables that is subject to Export Laws and Regulations. Where a Deliverable is subject to Export Laws and Regulations:

- (a) the Supplier will obtain and provide to the Buyer, at no cost, the relevant classification determinations, as well as any, license, permission or other authorisation required for the export, transfer, delivery and use of the Deliverables by the Buyer and the End User; and
- (b) the Supplier will clearly indicate on all delivery documentation and Deliverables the classification determination, export license number or authority, distribution restrictions and any applicable license exemptions.

The Supplier will provide the Buyer with all information concerning any changes to applicable Export Regulations and provide reasonable assistance where requested by the Buyer to comply with the amended Export Regulations. The Supplier shall indemnify and hold the Buyer harmless for all claims, damages, costs, fines, penalties, legal fees, and all other expenses arising out of or in connection with any failure of the Supplier to comply with this clause.

26. HAZARDOUS CHEMICALS: All Goods that are classed as a Hazardous Chemical must be Correctly Labelled and delivered with a Safety Data Sheet (SDS). If the Supplier fails to comply with this clause the delivered Goods will not be accepted and the Buyer may exercise its rights under clause 5.

27. PRIVACY: Personal information may be collected by the Buyer from the Supplier or its employees in order to conduct its business, to provide and market products and services or to meet legal obligations. By accepting this Order the Supplier consents to the collection, use and disclosure of personal information by the Buyer for any purpose in connection with this Order, as well as for any secondary purpose such as, but not limited, to: regulatory or governance reporting, storage and data retention, security, defence and other trade controls. The Buyer will collect, manage, use, and disclose personal information in accordance with its privacy policy, located at: <http://www.airbusgroupap.com.au/privacy-policy/>.

28. INSURANCE: The Supplier must maintain appropriate insurance sufficient to meet its liabilities arising out of or in connection with the Order as and when they arise. The Supplier must provide evidence of its insurance coverage to the Buyer upon request.