



**SIKORSKY AIRCRAFT CORPORATION**

**STANDARD TERMS AND CONDITIONS OF PURCHASE  
("SA 908")**

**Rev. February, 2015**

**VERIFY CURRENT REVISION OF FORM**

**Section Headings**

**SECTION IA: TERMS AND CONDITIONS OF PURCHASE**

**SECTION IB: SIKORSKY SPECIFIC REQUIREMENTS**

**SECTION II: QUALITY ASSURANCE PROVISIONS**

**SECTION III: ADDITIONAL QUALITY ASSURANCE PROVISIONS**

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**SECTION IA—STANDARD TERMS AND CONDITIONS OF PURCHASE**

**1. Acceptance**

Supplier's (i) full or partial performance under, or indication thereof, or (ii) acknowledgement of the Order, is acceptance of the Order and all terms and conditions contained in the Order, including these Terms and Conditions. Any terms and conditions proposed in Supplier's acceptance or in any acknowledgment, invoice, or other form of Supplier that add to, vary from, or conflict with the terms herein are hereby rejected. If the Order is an acceptance of a prior offer by Supplier, such acceptance is limited to the express terms set forth in the Order.

**2. Definitions**

- 2.1 "Affiliate" means, with respect to any entity, any other entity that directly or indirectly controls, is owned by, controlled by or under common ownership or control with such entity.
- 2.2 "Agreement" means the master terms agreement, long term agreement, subcontract, or other agreement that references these terms and conditions, and pursuant to which Orders are issued to Supplier.
- 2.3 "Buyer", "Sikorsky", or "SAC" means Sikorsky Aircraft Corporation ("SAC") or the UTC Affiliate that issues an Order referencing these terms and conditions, and any successor or assignee of Buyer.
- 2.4 "Buyer's Customer" means the ultimate owner, lessee, or operator of the Goods and includes the purchaser of an end product incorporating the Goods and/or Services provided by the Supplier under the Order.
- 2.5 "Delivery Date" means the date of delivery for Goods and Services as specified in an Order and/or by the Delivery System.
- 2.6 "Delivery System" means Buyer's computer-based, web-enabled delivery scheduling system.
- 2.7 "FAA" means the United States Federal Aviation Administration.
- 2.8 "Goods" means goods, parts, supplies, software, drawings, data, reports, manuals, other specified documentation, or items that are required to be delivered pursuant to, or in connection with, an Order. Where the context permits, the use of the term Goods shall include Services.
- 2.9 "Intellectual Property" means all inventions, patents, software, copyrights, mask works, industrial property rights, trademarks, trade secrets, know-how, proprietary information and rights and information of a similar nature. Such information includes, without limitation, designs, processes, drawings, prints, specifications, reports, data, technical information, and instructions.

- 2.10 "Lead Time" means the mutually agreed upon time required for Supplier to produce the Goods.
- 2.11 "Need Date" means the date Buyer needs delivery of Goods which date is before, or after, the Delivery Date.
- 2.12 "Party" or "Parties" shall mean Buyer and/or Supplier, individually or collectively, as the context requires.
- 2.13 "Prime Contract" means the government or commercial sales contract between Buyer and Buyer's Customer.
- 2.14 "Order" means a paper or electronic document sent by Buyer to Supplier, or where provided for in an Agreement, an entry on a Buyer web site, to initiate the ordering of Goods or Services, such as a purchase order, a scheduling agreement, or other authorization or Order, and including change notices, supplements or modifications thereto. The phrase "in connection with the Order" includes performance of the Order, performance in anticipation of the Order, and preparation of a bid or proposal for the Order. Where the context permits, the term Order includes Agreement.
- 2.15 "Services" means any effort performed by Supplier necessary or incidental to the delivery of Goods, including design, engineering, installation, repair and maintenance. The term "Services" shall also include any effort required by an Order.
- 2.16 "Specifications" means all requirements with which Goods and Services and performance hereunder must comply, including, without limitation, ASQR-01 or its then-current successor, drawings, instructions and standards, on a Buyer web site or elsewhere, as such requirements are specified and/or referenced in Orders, as such requirements are modified from time to time by Buyer.
- 2.17 "Supplier" means the legal entity identified in the Order, providing Goods and Services or otherwise performing work pursuant to an Order.
- 2.18 "Terms and Conditions" means this document, regardless of whether modified or unmodified by the Parties.

**3. Specifications**

Supplier shall comply with all Specifications. Supplier shall immediately notify Buyer, in writing, of any failure of the Supplier, the Goods or the Services to comply with the Specifications.

**4. Delivery**

- 4.1 Supplier shall use the Delivery System and electronic data exchange billing and invoicing systems (collectively, "Buyer Systems") specified by Buyer.
- 4.2 The delivery information in the Buyer Systems shall establish the Delivery Dates for the Goods and/or Services. Supplier shall only ship in accordance with the rules established by the Buyer Systems, and shall make use of the bar codes and other documentation generated by the Delivery System.

- 4.3 Time is of the essence in Supplier's performance of an Order, and Supplier shall deliver Goods and perform Services by the Delivery Date.
- 4.4 Shipment shall be to the location directed by Buyer. Invoicing, delivery terms, shipping, packing and waste reduction instructions shall be provided to Supplier through an attachment to, or printing on the face of, the Order, or incorporated into the Order by reference to a web site. In the absence of such instructions, the delivery terms for Goods shall be FCA Supplier's facility (Incoterms 2010). Title and risk of loss shall pass to Buyer upon receipt of Goods at Buyer's facility or third party drop shipment point.
- 4.5 Delivery Dates which do not allow sufficient Lead Time shall be considered Need Dates and Supplier shall use all commercially reasonable efforts to meet Need Dates. If Supplier agrees to the Need Date, the Need Date shall be considered the Delivery Date.
- 4.6 If Supplier is unable to deliver Goods by the Need Date, Buyer may, without liability: (i) reduce or cancel its requirements for any part of the quantity of the Goods that cannot be delivered by the Need Date, (ii) reallocate to another Order, or reschedule, any portion of the Goods that cannot be delivered by the Need Date, or (iii) waive the Need Date and accept Goods on the Delivery Date. In addition to any other rights and remedies that Buyer may have, in the event of Supplier's nonconformance with any of the requirements under this Section or any other delivery obligation, Supplier shall be responsible for all shipping costs and expenses incurred with respect to such nonconformance, including the costs of expediting shipment with respect to late deliveries.
- 4.7 Any forecasts of quantity and schedule that are set forth in the Delivery System are estimates and are for planning purposes only.
- 4.8 Without affecting any other rights of Buyer, Buyer may cancel Orders, in whole or in part, without liability to Supplier, at any time prior to commencement of Lead Time.

## **5. Inspection, Acceptance and Rejection**

- 5.1 Supplier shall only tender Goods to Buyer that have passed inspection in accordance with the applicable inspection system and that otherwise conform to all requirements of an Order.
- 5.2 Notwithstanding (i) prior inspection of, (ii) payment for, (iii) use of or (iv) delivery of the Goods, acceptance shall not be deemed to occur until thirty (30) days following Buyer's receipt of Goods ("Inspection Period"). Transfer of title to Buyer shall not constitute acceptance.
- 5.3 During the Inspection Period, Buyer may, with respect to any Goods that do not conform in any respect to the Order: (i) reject all or a portion of such nonconforming Goods; (ii) accept all or a portion of such nonconforming Goods with a price reduction for the cost of repair or the diminution of value; or (iii) accept any conforming Goods and reject the rest.

- 5.4 Within thirty (30) days of Supplier's receipt of Buyer's notification of a nonconformity, Supplier shall investigate the nonconformity, deliver to Buyer a written report of its investigation and conclusions, and formulate a corrective action plan acceptable to Buyer. Once approved by Buyer, Supplier must then timely implement such corrective action plan.
- 5.5 With respect to rejected nonconforming Goods, Buyer may at its election and at Supplier's risk and expense (i) hold nonconforming Goods for Supplier, or (ii) return (Ex Works, Incoterms 2010, facility where Goods are rejected) nonconforming Goods to Supplier for, at Buyer's option, either (a) full credit or refund or (b) replacement Goods to be received within 24 hours of nonconformity notification. Title to such rejected Goods returned to Supplier shall transfer to Supplier upon such delivery and such Goods shall not be replaced by Supplier except upon written instructions from Buyer. Goods returned to Buyer hereunder shall be shipped at Supplier's expense and risk of loss. Additionally, rejected nonconforming Goods shall not be tendered again to Buyer for acceptance unless permitted by Buyer and applicable law, and accompanied by a disclosure of Buyer's prior rejection(s).
- 5.6 Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from nonconforming Goods, including but not limited to labor and other costs related to transportation of Goods, expediting, removal, disassembly, failure analysis, fault isolation, assembly, reinstallation, re-inspection, retrofit, and any and all other such corrective action costs incurred by Buyer.

## **6. Warranty**

- 6.1 Supplier warrants to Buyer and Buyer's successors, assigns, Buyer's Customers, and users of Goods sold by Buyer for a period of thirty-six (36) months after acceptance of the Aircraft by Buyer's customer that all Goods provided under the Order shall be and continue to be: (i) new; (ii) free from defects in material and workmanship; (iii) free from defects in design if the design is not provided by Buyer; (iv) manufactured in strict accordance and complies with the Specifications; (v) free from liens or encumbrances on title (collectively in this section "Warranty"); and (vi) to the extent the Goods are, or contain, hardware, software, and/or firmware products, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing all times and dates) and are free of viruses and other sources of network corruption (collectively, "Warranty"). If the Order requires specific Goods to perform as a system, the foregoing Warranty also shall apply to those Goods as a system. The Warranty shall never extend beyond forty-eight (48) months after Buyer's receipt of the Goods ("Warranty Term"). Delivery, inspection, test, use of, or payment for, Goods shall not effect Supplier's Warranty obligation.
- 6.2 Buyer may require Supplier to promptly repair or replace, at Buyer's option, any Goods which breach the Warranty. Buyer may return ship the Goods on the fastest available commercial carrier at Supplier's expense and risk of loss. Goods returned to Buyer hereunder shall be shipped at Supplier's expense and risk of loss and shall be accompanied by notice stating whether they are new replacements or repaired originals, and shall continue to be covered under this warranty. Supplier shall conduct intake, review, analysis and any other activity required to evaluate whether



the returned Goods are covered by the Warranty at no expense to Buyer. Repaired original Goods shall be covered under this Warranty for the greater of six (6) months or for the balance of the original Term. The balance of the original Term shall be determined by the time remaining on the Term as of Buyer's discovery or receipt of notification of the defect.

- 6.3 Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from Goods not conforming to the warranty, including but not limited to labor and other costs related to transportation of Goods, expediting, removal, disassembly, failure analysis, fault isolation, assembly, reinstallation, re-inspection, retrofit, and any and all other such corrective action costs incurred by Buyer.
- 6.4 Supplier warrants to Buyer that all Services provided under or in connection with an Order: (i) have been, if applicable, and will be performed in a professional and workmanlike manner and in accordance with current, sound and generally accepted industry standards and practices by appropriately licensed, trained, supervised and personnel who are experienced in the appropriate fields; and (ii) do, if applicable, and will conform to and be in compliance with all applicable Specifications, performance requirements and other requirements contained in the Order (the "Service Warranty"). Supplier agrees that should any of the Services be defectively performed by Supplier, Supplier will re-perform or correct such defective Services at no additional charge. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Buyer's actual costs, expenses and damages related to or arising from the Services not conforming to the Services Warranty.
- 6.5 Supplier warrants to Buyer that all documentation and certifications by Supplier or Supplier's subcontractors or business partners related to the Goods, Services and Order, as applicable, are current, complete, truthful, and accurate and have been signed or stamped, as applicable, by individuals authorized and qualified to sign or stamp such documentation and certifications.

## **7. Indemnification**

Supplier shall indemnify and save harmless Buyer, Buyer's customers, Buyer's insurers and Buyer's Affiliates and their employees, agents, officers and directors for and from all suits, claims, judgments, awards, losses, damages, costs or expenses (including attorneys' fees) relating to, arising out of, or caused by the performance hereunder, any act or omission of Supplier or any Goods or Services. Supplier's indemnification obligation hereunder covers, without limitation, injuries, sickness, diseases (including occupational disease whenever occurring), or death of Supplier employees.

## **8. Taxes**

- 8.1 Unless otherwise stated in the Order, all payments, prices, fixed or otherwise, sums, payments, fees and monetary amounts mentioned in this Order are exclusive of any and all sales and use taxes, value added taxes, goods and services taxes, taxes levied upon importation, such as customs duties, excises, or any other taxes ("Taxes") levied in regard of any of the transactions covered by the Order.

- 8.2 When invoicing, Supplier shall (i) include amounts of Taxes, or specific fees Supplier is required by applicable law to add-on to the sales price and collect from Buyer or otherwise is legally due from Buyer and (ii) separately state each of the Taxes.
- 8.3 Supplier is solely responsible for the fulfillment of Supplier's obligations under law or statute in respect to collecting and remitting Taxes collected from Buyer under the Order to the proper tax authority. Any penalties, fees or interest charges imposed by a tax authority or other authority as the result of non-payment of Taxes collected by Supplier from Buyer will be borne by Supplier. Supplier shall also pay any Taxes arising out of its willful misconduct or negligence for which Buyer becomes liable.
- 8.4 Supplier shall not collect Taxes on the supply of Goods and Services pursuant to the Order in case and under circumstances where (i) the transaction is not subject to Taxes, (ii) the liability for payment of Taxes is shifted or reversed by law or statute or otherwise is the legal responsibility of the Buyer or (iii) Buyer has been authorized to pay Taxes directly to the appropriate Tax authority.
- 8.5 Supplier shall deliver electronically by way of the Internet all software of any type, including manuals. Supplier shall separately itemize the prices of electronically delivered software, licenses, fees and Services on invoices. Invoices shall clearly indicate the manner of software delivery by inclusion of the phrase, "software delivered electronically to the customer via the internet." License locations should clearly be stipulated in the Order or Agreement to allow for proper allocation of any Taxes owed.
- 8.6 Supplier warrants that invoices issued in relation to goods and services supplied under this agreement are in compliance with any and all requirements as to content and format imposed by tax and/or civil statute that has jurisdiction over the transaction or transactions performed by the Supplier.
- 8.7 Buyer shall withhold any portion of the monies from the amount payable under the invoices issued to it to account for any withholding for taxes that is required to be made by the Buyer pursuant to the tax laws in the relevant tax jurisdiction. Any such amount required to be withheld by the Buyer on behalf of the Supplier shall be deemed a payment on account of the relevant invoices issued to the Buyer. Buyer shall provide Supplier with receipts supporting any taxes withheld.
- 8.8 Buyer is not responsible for any tax based on Supplier's income, payroll or gross receipts.
- 8.9 Buyer shall report and remit any Taxes relating to property for which Buyer retains title pursuant to the Order or Agreement, accruing prior to and after the commencement of the Order or Agreement (as applicable). Where Supplier possesses Buyer-owned property, Supplier shall notify Buyer of any disposal or movement of such property. Supplier shall report and remit any property-related Taxes relating to property for which Supplier retains title pursuant to the Order or Agreement, accruing prior to and after the commencement of the Order or Agreement.
- 8.10 Supplier shall, upon receipt from any Tax Authority of any levy, notice, assessment, or withholding of any Taxes for which Buyer may be obligated, notify Buyer in writing

directed to: Manager, Tax Compliance, United Technologies Corporation, 8 Farm Springs Road M/S 10FS-1, Farmington, CT 06032.

- 8.11 Supplier shall cooperate in the equitable resolution of disputes pertaining to any Taxes arising from this Order or Agreement. If Buyer may directly contest any Taxes in its own name, then it may do so and, to the extent permitted by law, withhold payment during contest pendency. If Buyer is not so permitted, Supplier shall in good faith, as requested by Buyer, contest the Taxes. Supplier shall supply Buyer with information and documents as Buyer may reasonably request for Buyer to control or participate in any proceeding to the extent permitted herein.
- 8.12 If Supplier receives a refund of any Taxes attributable to Buyer; Supplier shall pay such amount to Buyer within thirty (30) days of receipt. Supplier shall indemnify Buyer against any and all losses, costs, and expenses (including reasonable attorneys' fees) which result from Supplier's violation of its obligations under this section.

**9. Inspection and Audit Rights**

- 9.1 Supplier (which, for the purposes of this Section, includes Supplier's suppliers, subcontractors and business partners) shall at any time, and after reasonable notice by Buyer, (i) grant to Buyer, Buyer's Customers and/or to any competent regulatory authority, unrestricted access to (or if requested by Buyer, provide to Buyer copies of) Supplier's books records and documentation (including, without limitation, inspection those pertaining to quality, and testing of Goods and Services, security and data protection procedures, ethics and compliance programs and any other requirement or obligation under the Order), but excluding financial books and records), wherever such books and records may be located (including third-party repositories and at facilities of Supplier's suppliers, subcontractors, and business partners used in connection with the Order)), and (ii) provide Buyer, Buyer's Customers and/or any such authority the right to access, and to perform any type of inspection, test, audit or investigation at Supplier's premises, including without limitation, manufacturing and test locations and the facilities of Supplier's suppliers, subcontractors and business partners used in connection with the Order for the purpose of enabling Buyer to verify compliance with the requirements set forth in the Order or for any other purpose indicated by Buyer's Customers and/or said authority in connection with the design, development, certification, manufacture, sale, use and/or support of the Goods. Supplier and its suppliers, subcontractors and business partners shall cooperate with Buyer and Buyer's Customers and/or any such authority to furnish all reasonable facilities for and assistance with the safe performance of , . Inspections, tests, audits and/or investigations in connection with any Order and Goods and Services thereunder.
- 9.2 Supplier shall maintain complete inspection records for all Goods which shall be available to Buyer during performance of an Order and until the later of: (i) four (4) years after final payment, (ii) final resolution of any dispute involving the Goods delivered hereunder, (iii) the latest time required by an Order, (iv) the latest time required by applicable laws and regulations, (v) the latest time required by the ASQR-01 version effective as of the date of the Order, or (vi) as otherwise directed by Buyer.

- 9.3 Any corrective action requested by Buyer, Buyer's Customers and/or any said authority following any such inspection, test, audit or investigation shall be implemented by Supplier at Supplier's cost.
- 9.4 In addition to any other inspection or audit rights granted to Buyer hereunder, Buyer may inspect and audit, on reasonable notice, Supplier's financial books and records if the Order: (i) is a time and material order, (ii) is a cost-based order, or (iii) provides for advance or progress payments based on costs incurred by Supplier.

**10. Aviation Unique Requirements**

- 10.1 Supplier shall immediately notify Buyer upon receipt of any Government-Industry Data Exchange Program (GIDEP) Alert related to Goods, and shall provide Buyer a list of all affected Goods by Order, part number, invoice number, serial number, or any other identifying number as applicable. For GIDEP Alerts caused in whole or in part by the Goods, Supplier shall immediately replace all affected Goods at its sole expense including any installation and removal costs for the Goods so affected and reimburse Buyer for any damages and commercially reasonable expenses incurred by Buyer.
- 10.2 If the FAA, or other aviation authority, issues Airworthiness Directives ("AD"s), or the equivalent of Airworthiness Directives, related to Goods, Supplier shall immediately remove the cause(s) of the ADs or AD equivalents in all Goods delivered and to be delivered to Buyer including but not limited to Goods utilized in the field. Supplier shall reimburse Buyer for any costs and damages associated with removal, redelivery and installation of Goods, incurred by Buyer as a result of such ADs or equivalent of ADs which are attributable to the Goods.
- 10.3 Following completion of any Buyer required reviews and approvals, Supplier shall provide all Service Bulletins, Safety Bulletins and Administrative Directives (collectively in this sub-Section "Bulletins") to Buyer immediately upon issuance. Supplier shall implement Supplier's recommendations contained in Bulletins on all Goods delivered and to be delivered.

**11. Product Support Obligation**

Supplier shall maintain the ability to provide, and shall provide, product support for the Goods, which shall include, without limitation, assuring that subcomponents and materials are available, maintaining tooling and other production capability and re-engineering components or systems to address obsolescence until the later of twenty five (25) years after the last Order is placed by Buyer for Goods or less than five (5) end products incorporating Goods are in operation anywhere in the world. Supplier shall offer the same pricing for Goods purchased under this Agreement, regardless of end-use.

**12. Buyer-Furnished and Buyer-Funded Items**

- 12.1 All material, including information, required to be furnished to Supplier under the Order ("Buyer Furnished Items") shall be delivered as specified in the Order, or, if not specified, in sufficient time to enable Supplier's timely performance. Buyer shall have no liability to Supplier for any delays or failures in the delivery of Buyer

Furnished Items. If Buyer Furnished Items are not delivered to Supplier in sufficient time to enable Supplier to meet Delivery Dates, Supplier may notify Buyer of the delay and shall be entitled to an extension of such schedule equal to the period of the delay. Such adjustment shall be Supplier's sole and exclusive remedy.

- 12.2 Title to all tooling, test equipment, and material identified as a separate line item under this or any previous Orders, or referred to in any agreement between Buyer and Supplier, and fabricated or acquired by Supplier ("Buyer Funded Items") shall vest in Buyer.
- 12.3 Buyer Furnished Items and Buyer Funded Items (collectively, "Buyer Items") shall be used only for the purposes of the Order. Supplier shall not use Buyer Items on any other order without Buyer's written permission. Supplier shall, at its own expense, (i) establish and follow a preventative maintenance calibration and repair program for, (ii) safely store (separated from other material where practicable), and (iii) maintain all Buyer Items in good, workable condition.
- 12.4 Unless otherwise directed by the Buyer, Supplier shall account to Buyer for the proceeds from the sale of scrap or other high cost material "off fall" generated during the performance of the Order by the processing of Buyer Items unless Supplier reimburses Buyer at Buyer's current prices for any Buyer Items used by Supplier. Intact or recognizable Buyer Items, the Goods or any other items in connection with this Order subject to the ITAR, 22 C.F.R. Chapter I, Subchapter M, Parts 120 – 130 or the EAR, 15 C.F.R. Parts 300 to 799, components, and parts are not considered scrap. All Buyer Items, Goods or other items subject to the ITAR and/or EAR must be controlled and unauthorized non-U.S. Person access restricted until it is rendered useless beyond repair, rehabilitation, or restoration to remove any unique identifiers, data plates, part numbers, serial numbers, defensive or offensive capability and any recognition characteristics of the item before being considered recyclable, waste, or discarded material, all in accordance with applicable Export Control Laws, as defined below.
- 12.5 Title to any Buyer Items shall remain with Buyer. Buyer, in order to protect its interests, may require Supplier to execute documents that are related to the Buyer Items, including, Uniform Commercial Code financing statements or any similar documents. Supplier shall plainly mark and adequately identify Buyer Items as being Buyer's property. Supplier shall not substitute any property for or modify Buyer-Furnished Items.
- 12.6 Upon Buyer's request, Supplier shall provide an annual written inventory of Buyer's Items, including certification of compliance with this provision and proof of adequate insurance covering full replacement cost of Buyer Items.
- 12.7 Supplier shall, upon discovery, provide notification to Buyer if any Buyer Items are lost, damaged or destroyed. Upon completion or termination of the Order, or at any time upon Buyer's request, Supplier shall, at its own expense, dispose of Buyer Items in accordance with Buyer's instructions.
- 12.8 If Buyer Items are furnished to Supplier in connection with the production of Goods to be imported by Buyer into the destination country, Supplier shall comply with all

instructions from Buyer to document the value of such Buyer Items as "assists" in compliance with the customs laws and regulations of the destination country.

**13. Changes**

- 13.1 Buyer's authorized procurement representative (which does not include Buyer's engineering and technical personnel) may unilaterally make changes within the general scope of the Order, including changes in whole or part to: (i) shipping, waste reduction or packing instructions, (ii) place of delivery, (iii) any designs, Specifications and drawings, (iv) the statement of work, (v) the method or manner of performance, (vi) Buyer Items, facilities, equipment, or materials, (vii) Prime Contract flowdown requirements and/or (viii) quality requirements (collectively or individually as the context requires "Change(s)"). Supplier shall perform any Changes ordered by Buyer. Any Order terms that incorporate flexibility for variations or modifications shall not be considered Changes within the meaning of this Section.
- 13.2 If any Change under this Section causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment shall be made in price or delivery schedule or both ("Adjustment Claim"), and Buyer shall modify the Order accordingly. Supplier must submit an Adjustment Claim in writing in the form of a complete change proposal, fully supported by factual information, to Buyer's procurement representative no later than fifteen (15) days after Supplier's receipt of the Change.
- 13.3 If the cost of property or material made obsolete or excess as a result of a Change is included in the Adjustment Claim, Buyer may direct the disposition of such property or material. Notwithstanding any pending Adjustment Claims, Supplier shall diligently proceed with the performance of the Order, as directed by Buyer.
- 13.4 If Supplier considers that Buyer's conduct constitutes a Change, Supplier shall notify Buyer's authorized procurement representative immediately in writing as to the nature of such conduct and its effect upon Supplier's performance. Supplier shall take no action to implement any such Change without written direction from Buyer's authorized procurement representative.
- 13.5 Supplier shall not make any changes to Goods, including, without limitation, in form, fit, function, or classification, or to any component or software (collectively, "Engineering Changes") without: (i) submitting an Engineering Change Submission Questionnaire; (ii) submitting either an SA Form 1359 or 1360, as directed by Buyer; (iii) receiving from Buyer an acceptance of the Engineering Change; and (iv) submitting final Engineering Change data, which data shall be delivered to Buyer no later than thirty (30) days prior to the Delivery Date.
- 13.6 Buyer shall have absolute discretion in determining the classification of the Goods, and Buyer may reject any changed Goods which fail to comply with the applicable Change procedures.

**14. Stop Work Order**

- 14.1 Buyer may, from time to time, require Supplier to stop all or any portion of the work called for by the Order for a period of up to 120 days ("Stop Work Period") at each

such time. Upon receipt of written notice detailing the length and scope of the Stop Work Period, Supplier shall immediately comply with its terms at no charge. Within the Stop Work Period, Buyer shall either: (i) cancel the stop-work order and Supplier shall resume work; or (ii) terminate the work covered by the stop-work order, for default or convenience, as the context requires, in accordance with the provisions of the Order.

## **15. Termination for Default**

- 15.1 Buyer may, by written notice, terminate the Order (which, for the avoidance of doubt, includes the Agreement) or any portion thereof, for default without any liability or obligation whatsoever to Supplier for the portion terminated, in the following circumstances: (i) Supplier fails to perform any obligation hereunder, including a delivery obligation; (ii) when Buyer has reasonable grounds for insecurity, and Supplier fails to provide adequate assurances of performance within ten (10) days following Buyer's demand therefore; or, (iii) should Supplier (a) become insolvent, (b) become unable to pay its debts as they mature, (c) make a general assignment for the benefit of creditors, (d) have a receiver appointed for the whole or any substantial part of its assets, or (e) become in any way the subject of a bankruptcy petition.
- 15.2 Buyer shall have no liability in relation to those Goods terminated for Supplier's default. Supplier shall be liable to Buyer for any and all expenses, costs, and damages including increased re-procurement costs, requalification costs, and other non-recurring costs, except in the circumstance of any failure or delay constituting an "Excusable Delay" as set forth in the Section herein entitled "Force Majeure".
- 15.3 If the Order is entirely or partially terminated under this Section Buyer, in addition to any other rights Buyer may have, may require Supplier, at no charge to Buyer, to: (i) deliver to Buyer all information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, utilized by Supplier in performing the Order; (ii) deliver the tooling and test equipment necessary to make or have made the Goods and provide technical and transition assistance; and (iii) provide to Buyer a worldwide, perpetual non-exclusive, fully paid-up, irrevocable, license, with the right to grant sublicenses, to Supplier's information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, to the extent necessary, to enable Buyer to make, have made, use, sell and license the Goods.
- 15.4 In addition to and not in lieu of other rights to Intellectual Property otherwise set forth in this Agreement or these Terms and Conditions, Supplier hereby grants to Buyer a worldwide, non-exclusive, paid-up, irrevocable, license ("Additional License"), with the right to grant sublicenses, to Supplier's information, data, know-how, tooling, test equipment and other Intellectual Property, including without limitations proprietary and manufacturing information to enable Buyer to make, have made, use, sell and license the Goods, subject to the following restriction. Buyer hereby agrees not to exercise such rights under this Additional License except in the event Supplier (i) becomes insolvent, (ii) becomes unable to pay its debts as they mature, (iii) makes a general assignment for the benefit of creditors, (iv) has a receiver appointed for the whole or any substantial part of its assets, or (v) becomes in any way the subject of a bankruptcy petition, whether or not the Order is terminated. As part of such Additional License, Supplier shall upon Buyer's written request and at no charge to

Buyer, promptly (a) deliver to Buyer all information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, utilized by Supplier in performing the Order, and (b) deliver the tooling and test equipment necessary to make or have made the Goods and provide technical and transition assistance in order to ensure Buyer's continuing requirements for Goods.

- 15.5 If, after notice of termination under this Section, it is determined that Supplier was not in default, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience Section. In such case, Supplier shall not be entitled to any remedy other than as provided for in the Termination for Convenience Section.

**16. Termination for Convenience**

- 16.1 Buyer may, at any time, terminate all or part of the Order (which, for the avoidance of doubt, includes the Agreement), for its convenience upon written notice to Supplier.
- 16.2 Upon termination, in accordance with Buyer's written direction, Supplier will immediately: (i) cease work and place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Order; (ii) prepare and submit to Buyer an itemization of all completed and partially completed Goods and/or Services; (iii) deliver to Buyer any and all Goods completed up to the date of termination at the pre-termination Order price; and (iv) if requested by Buyer, deliver any work-in-process.
- 16.3 In the event Buyer terminates for its convenience after performance has commenced, Buyer will compensate Supplier only for the actual and reasonable work-in-process costs incurred by Supplier on Goods required to be delivered within the Lead Time period, calculated from Buyer's issuance of the notice of termination. If the Order does not specify Lead Time, Lead Time shall be the reasonable average lead time for the Goods in accordance with Buyer data. Supplier shall use reasonable efforts to mitigate its own and Buyer's liability under this Section. In order to receive compensation, Supplier's termination claim must be submitted within ninety (90) days from the effective date of the termination.
- 16.4 Buyer shall not be liable to Supplier for costs or damages other than as described above, and in no event for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the price allocated to the portion of the Order terminated.

**17. Customs Trade Partnership Against Terrorism (C-TPAT) Program**

**Applicability: This provision is applicable to Orders in which Goods will be shipped into the United States.**

- 17.1 Supplier agrees that, during the period in which it ships Goods to Buyer, it and its subcontractors who either ship directly or package Goods for shipment will either (i) be certified under the Customs Trade Partnership Against Terrorism ("C-TPAT") program by the U.S. Bureau of Customs and Border Protection or (ii) demonstrate to Buyer's satisfaction that it meets the security requirements of C-TPAT. Accordingly, Supplier must either provide Buyer with documentation that it and its subcontractors



are certified (e.g. C-TPAT certification or Status Verification Interface (SVI) number), or provide documentation and evidence satisfactory to Buyer to demonstrate compliance with C-TPAT security requirements, available at [www.cbp.gov](http://www.cbp.gov).

- 17.2 Upon five (5) days prior written notice, Buyer, or its designee, may audit all pertinent books and records of Supplier and its subcontractors, and make reasonable inspection of Supplier's and its subcontractors' premises, in order to verify compliance with the requirements of this provision.
- 17.3 Any delay in delivery due to Supplier's failure to comply with this provision shall not relieve Supplier of its obligations and shall not constitute a force majeure or give rise to an Excusable Delay.

**18. Intellectual Property Rights (for non-U.S. Government Orders)**

- 18.1 Background Intellectual Property shall mean all Intellectual Property other than Foreground Intellectual Property.
- 18.2 Foreground Intellectual Property shall mean all Intellectual Property and tangible work product conceived, created, acquired, or first reduced to practice in connection with the Order.
- 18.3 Each Party retains its existing rights in Background Intellectual Property.
- 18.4 Buyer shall own all Foreground Intellectual Property. Supplier shall disclose to Buyer all Foreground Intellectual Property. If not expressly required to be delivered in the Order, Supplier shall deliver to Buyer all Foreground Intellectual Property upon written request from Buyer. Supplier hereby irrevocably assigns and promises to assign to Buyer all right, title and interest to all Foreground Intellectual Property. Supplier agrees to do all things reasonably necessary to enable Buyer to secure and perfect Buyer's Foreground Intellectual Property rights, including, without limitation, executing specific assignments of title in Foreground Intellectual Property by Supplier to Buyer and cooperating with Buyer at Buyer's expense to defend and enforce Buyer's rights in any such Foreground Intellectual Property. All Foreground Intellectual Property assigned to Buyer pursuant to the Order shall be considered Buyer's Proprietary Information (defined hereinafter). Supplier agrees that, for any works of authorship created by Supplier or any employees or any others used by Supplier in the course of the Order, those works that come under one of the categories of "Works Made for Hire" in 17 U.S.C. §101 shall be considered "Works Made for Hire". For any works of authorship that do not come under such categories, Supplier, warranting that it has the right to do so, hereby assigns and promises to assign all right, title, and interest to any copyright in such works to Buyer and will execute, or cause to be executed at Buyer's expense, any documents required to establish Buyer's ownership of such copyright.
- 18.5 Supplier represents and warrants that Supplier has sufficient rights in all Goods, Services, and Intellectual Property and other items that Supplier uses or transfers to Buyer in connection with the Order to allow Supplier to lawfully comply with the Order.

- 18.6 Supplier hereby grants and promises to grant to Buyer and Buyer's Affiliates a worldwide, non-exclusive, perpetual, fully-paid, irrevocable, transferable license to Background Intellectual Property (i) to use, sell, offer for sale, import, export, copy, adapt, embed, modify, make derivative works, make and have made Goods and Services, and (ii) to enable Buyer to practice the Foreground Intellectual Property.
- 18.7 Supplier hereby irrevocably waives and promises to waive all moral rights to the extent permissible by law, all rights of privacy and publicity, and the like, in all Goods provided to Buyer and in all activities in connection with the Order.
- 18.8 Supplier represents and warrants that Supplier shall not provide, in the performance of the Order, any software, (including without limitation source code, compiled code, embedded software, firmware, free software, open source software, freeware, general public license-governed software, any electronic hardware, including without limitation free hardware, designs or open source hardware design), in any form that is subject to any obligations or conditions that may provide a legal right to any third party to access such software and/or electronic hardware, or that could otherwise impose any limitation or condition on Buyer's use, reproduction, modification, distribution or conveyance of such software or electronic hardware.
- 18.9 Except as expressly authorized herein, nothing in the Order shall be construed as Buyer granting Supplier a license in or any right to use any of Buyer's Intellectual Property other than in the performance of work under the Order.

**19. Intellectual Property Indemnification**

- 19.1 Supplier shall indemnify and hold harmless Buyer, Buyer's Customers, its Affiliates, and subsidiaries, their agents, directors, officers, and employees, and each subsequent purchaser or user, from any losses, costs, damages, and liabilities, including, without limitation, any attorney's fees, court costs and fines, arising from any potential or actual claim, suit, injunction, action, proceeding, or investigation alleging infringement or violation of any Intellectual Property rights or license, related to the manufacture, use, sale, offer for sale, import or other exploitation of any Goods or Services delivered or performed in connection with the Order ("Claim").
- 19.2 Supplier shall not be liable for any Claim based on Supplier's compliance with any Specification created by Buyer, unless: (i) Supplier could have complied with Buyer's Specification using a solution that was non-infringing; (ii) the Specification was derived from, recommended by, or provided by, Supplier; or (iii) Supplier knew or should have known of a Claim or potential Claim and did not promptly notify Buyer in writing.
- 19.3 Supplier shall, upon written notice from Buyer of a Claim, promptly assume and diligently conduct the entire defense of a Claim at its own expense. Insofar as the Buyer's interests are affected, the Buyer shall have the right, at its own expense and without releasing any obligation of the Supplier, to participate and intervene in a Claim. Buyer shall have the right to reasonably reject counsel selected by Supplier. Supplier shall not enter into any settlement without Buyer's prior written consent, which shall not be unreasonably withheld.

- 19.4 Buyer may supersede Supplier in the defense of any Claim, and assume and conduct the defense at Buyer's sole discretion. In such an event, Supplier shall be released from any obligation to pay for attorneys' fees and court costs, but not settlement or damages, and any such release is expressly conditioned on Supplier's complete cooperation with Buyer in Buyer's defense of such Claim at Buyer's expense. Buyer shall not enter into any settlement without Supplier's prior written consent, which shall not be unreasonably withheld.
- 19.5 If the manufacture, use, sale, offer for sale, import, export or other exploitation of any Goods or Services is enjoined by a court, if delivery is precluded by a government entity, or should Supplier refuse to provide or supply Goods or Services to avoid a potential third party claim, Supplier shall avoid any disruption to Buyer and shall (i) secure for Buyer the right to use or sell such Goods or Services ; (ii) modify or replace such Goods with equivalent non-infringing Goods or Services ; or (iii) provide such other solution acceptable to Buyer. Supplier shall reimburse Buyer for Buyer's costs incurred in obtaining all internal, external and Buyer Customer approvals, qualifications, certifications, and the like, necessary for making, using and selling alternate non-infringing Goods or Services. Supplier shall refund to Buyer the purchase price of any such Goods or Services that Buyer is prohibited from providing, using, selling, offering for sale, importing, exporting or otherwise exploiting.

**20. Proprietary Information**

- 20.1 In order to deliver the most effective and efficient Goods and Services possible and meet Buyer's requirements for those Goods and/or Services, Buyer and Supplier anticipate the need to exchange Proprietary Information (as defined below) for the design, development, testing, manufacture and/or repair of Goods and/or Services, as applicable in connection with such Order and/or the Agreement. In recognition of the value of that Proprietary Information, as well as to protect Buyer's goodwill and reputation in its products, Supplier agrees to the terms and conditions of this Section 20.
- 20.2 "Proprietary Information" shall mean all information, knowledge or data (including without limitation financial, business, and product strategy information; product specifications; product designs; procedures; studies; tests; and reports) in written, electronic, tangible, oral, visual or other form, (i) disclosed by, or obtained from, Buyer or (ii) conceived, created, acquired, or first reduced to practice in connection with the Order. If Buyer furnishes sample products, equipment, or other objects or material to Supplier, the items so received shall be used and the information obtained from said items shall be treated as if they were Proprietary Information disclosed in connection with the Order.
- 20.3 Unless the Supplier has received the Buyer's express written consent to the contrary, Supplier shall (i) use the Proprietary Information solely for the purposes of the Order, and not for any other purpose (including, without limitation, designing, manufacturing, selling, servicing or repairing equipment for entities other than Buyer; providing services to entities other than Buyer; or obtaining any government or third party approvals to do any of the foregoing); (ii) safeguard the Proprietary Information to prevent its disclosure to or use by third parties; (iii) not disclose the Proprietary

Information to any third party; and (iv) not reverse engineer, disassemble, or decompile the Proprietary Information.

- 20.4 Supplier may disclose the Proprietary Information to employees, officers, directors, labor personnel of Supplier who have a need to know such Proprietary Information for the purposes of performing the Order and who have executed a written agreement with the Supplier obligating such entity or person to treat such information in a manner consistent with the terms of this Section.
- 20.5 The Order shall not restrict Supplier from using or disclosing any information that, as proven by written contemporaneous records kept in the ordinary course of business: (i) is or may hereafter be in the public domain through no improper act or omission of the Supplier or a third party; (ii) is received by Supplier without restriction as to disclosure by Supplier from a third party having a right to disclose it; (iii) was known to Supplier on a non-confidential basis prior to the disclosure by the Buyer; or (iv) was independently developed by employees of Supplier who did not have access to any of Buyer's Proprietary Information.
- 20.6 If Proprietary Information is required to be disclosed pursuant to judicial process, Supplier shall promptly provide notice of such process to Buyer and, upon request, shall fully cooperate with Buyer in seeking a protective order or otherwise contesting such a disclosure. Disclosure of such requested Proprietary Information shall not be deemed a breach of the Order provided that the obligations of this Section are fulfilled by Supplier.
- 20.7 Buyer shall have the right to audit all pertinent documentation of the Supplier, and to make reasonable inspection of the Supplier's premises, in order to verify compliance with this Section.
- 20.8 Obligations in this Section regarding Proprietary Information shall continue until such time as all Proprietary Information is publicly known and generally available through no improper act or omission of the Supplier or any third party.
- 20.9 Unless required otherwise by law or the Order, the Supplier shall promptly return, or otherwise dispose of Proprietary Information as the Buyer may direct. Absent contrary instructions, Supplier shall destroy all Proprietary Information one (1) year after termination or completion of the Order and provide written acknowledgement to Buyer of such destruction.
- 20.10 Supplier agrees to cause all information regardless of form (including, for example, electronic, magnetic and optical media, software, and compilations), containing or derived in whole or in part from Proprietary Information to bear the following legend:

**This document contains the property of United Technologies Corporation and/or a United Technologies Corporation Affiliate. You may not possess, use, copy or disclose this document or any information in it for any purpose, including without limitation to design, manufacture, or repair parts, or obtain FAA, Transport Canada Civil Aviation (TCCA) or other government approval to do so, without express written permission. Neither receipt, from any source, nor possession of this document, constitutes such permission. Possession, use, copying or disclosure by anyone without express written permission of United Technologies**

**Corporation and/or the United Technologies Corporation Affiliate issuing the Order is not authorized and may result in criminal and/or civil liability.**

- 20.11 Notwithstanding any proprietary or confidential labels or markings, all information of Supplier disclosed to Buyer relating to the Order will be deemed non-confidential and the content of the Order may be disclosed by Buyer to Buyer's Affiliates or to Buyer's Customer or Buyer's subcontractors and potential subcontractors provided that Buyer's Customer or subcontractors have a need to access or know such information. Moreover, Buyer may disclose all Supplier information, in accordance with applicable governmental regulations, to the FAA, the European Aviation Safety Agency (EASA), TCCA, any other governing international airworthiness certifying authority, and/or any other department or agency of the U.S. Government, including, without limitation, for the purpose of obtaining necessary government approvals.
- 20.12 Supplier agrees that it will not accept from any third party, or use, any information that appears to be similar to Proprietary Information without first obtaining Buyer's express written consent, except that Supplier may receive solicitations or purchase orders issued by a partner or higher-tier supplier of Buyer that expressly reference a Buyer Purchase Order and contain obligations no less stringent than this Section. Supplier shall promptly notify Buyer if Proprietary Information is offered to Supplier by a third party or of the suspected possession of Proprietary Information by a third party.
- 20.13 Supplier acknowledges that exposure to Buyer's Proprietary Information and other Intellectual Property will make it easier for Supplier to manufacture or repair, or to apply for or assist another entity in obtaining FAA or other government approval for, parts that are the same parts or that have the same form, fit and function, as parts Supplier supplies to Buyer pursuant to an Order hereunder. Supplier also acknowledges that Buyer's goodwill and reputation which become associated with parts supplied by Supplier pursuant to an Order hereunder once approved for use in Buyer's products make it easier for Supplier to manufacture or repair, or to apply for or assist another entity in obtaining FAA or other government approval for those parts, or parts that have the same form, fit and function, for use in Buyer's products. Supplier agrees that it shall not manufacture or repair parts that Supplier supplies to Buyer pursuant to an Order hereunder, or manufacture or repair parts having the same form, fit and function, for use in Buyer's products, or apply for or assist another entity in obtaining FAA or other government approval for any such parts, without Buyer's written consent. If Supplier manufactures or repairs any such parts, or applies for or assists another entity in obtaining FAA or other government approval for any such parts, for use in Buyer's products without obtaining Buyer's written consent, then it shall be considered a breach of the Order and Buyer shall be entitled to injunctive relief and such other remedies as a court may order. Supplier shall not make accessible or sell completed or partially completed or defective Goods manufactured using or containing Proprietary Information to any unauthorized third parties. Goods not provided to Buyer shall be disposed of in a manner that prevents disclosure of Proprietary Information (including by reverse engineering).
- 20.14 Supplier acknowledges that exposure to Buyer's Proprietary Information and other Intellectual Property will make it easier for Supplier to manufacture or repair parts, or to apply for or assist another entity in obtaining FAA or other government approval for, parts that are the same or that have the same form, fit and function, as parts

Supplier supplies to Buyer pursuant to an Order hereunder. Supplier agrees to notify Buyer in writing and to obtain Buyer's written consent prior to manufacturing or repairing any parts, or applying for or assisting another entity in obtaining FAA or other government approval for any parts, for itself or another entity, that have the same form, fit and function as any parts Supplier supplies to Buyer pursuant to an Order hereunder. Supplier's notification shall (a) describe the parts to be manufactured or repaired, or for which application for or assistance to another entity in obtaining FAA or other government approval for such parts is to be provided, (b) identify the corresponding parts Supplier supplies to Buyer and (c) provide Buyer with sufficient information to demonstrate that Supplier will manufacture or repair, or apply for or assist another entity in obtaining FAA or other government approval for such parts (as the case may be) without reference to or use of Buyer Proprietary Information or other Buyer Intellectual Property. If Supplier manufactures or repairs any such parts without obtaining Buyer's written consent (or applies for or assists another entity in obtaining FAA or other government approval for such parts), then it shall be considered a breach of the Order and Buyer shall be entitled to injunctive relief and such other remedies as a court may order.

- 20.15 Supplier shall not make accessible or sell completed or partially completed or defective Goods manufactured using or containing Proprietary Information to any unauthorized third parties. Goods not provided to Buyer shall be disposed of in a manner that prevents disclosure of Proprietary Information (including by reverse engineering).
- 20.16 For proprietary information exchanged in connection with the Order, the terms of this Section shall supersede any provisions regarding the protection of proprietary information in any other agreement between the Parties.

**21. Security for UTC Information Stored by Supplier**

- 21.1 Buyer wishes to ensure that Supplier has effective information security to ensure the secure storage and/or processing of UTC Information (as defined below) at Supplier's facility and to facilitate the exchange of information between Buyer and Supplier. As used in this provision, "UTC Information" means (i) Proprietary Information owned by UTC or a UTC Affiliate (each such entity, a "UTC Entity"); (ii) information managed by UTC or a UTC Entity; (iii) information that UTC or a UTC Entity is obligated to manage and protect on behalf of others; and (iv) personally-identifiable information relating to an identified or identifiable employee of UTC or a UTC Entity or others that is protected by various privacy laws (current or future) as applicable throughout the world including, without limitation, Social Security Number, address, telephone number, gender, birth date, medical records, trade union membership, driver's license number, financial account number, credit or debit card number (all subsection (iv)) defined as "PII").
- 21.2 Supplier agrees to install and implement security hardware, software, procedures and policies that will provide reasonable and effective information security. Supplier agrees to update such hardware, software, procedures and policies as may be needed from time to time to utilize improved technology and to respond to more

sophisticated security threats in order to maintain a level of security protection appropriate for the information involved and the current state of security solutions.

21.3 Supplier further agrees to:

- 21.3.1 Provide to Buyer a copy of its current information security policy, including its policy regarding physical security for access to devices that may access UTC Information. Supplier shall annually provide Buyer with its then current policy and indicate any plans, including a timetable for implementation, of planned upgrades to comply with the policy. Supplier shall implement those reasonable requests for modification of such policy requested by Buyer.
- 21.3.2 Allow Buyer or its designee at any time to conduct (or have conducted) a remote network audit. If the UTC Information is stored in a shared environment per the agreement of Buyer, then Buyer shall use a third party to conduct such audits. The audits shall include any facilities with UTC Information including backup storage facilities.
- 21.3.3 Segregate all UTC Information into a separate database only accessible by Buyer, its agents and those employees of Supplier necessary to maintain the equipment and the program on which it runs, unless otherwise agreed by Buyer. Logical segregation of data, if approved by Buyer, may be an acceptable alternative to this requirement. Except for Buyer and its agents, Supplier shall use reasonable efforts, as measured by the available technology at the time, to prevent anyone other than its authorized employees from accessing the UTC Information.
- 21.3.4 Assure that all UTC Information and applicable software is appropriately backed up and recoverable in the event of a disaster.
- 21.3.5 Encryption Requirements. The following requirements apply when Supplier has possession of UTC Information. Encryption algorithms used must be of sufficient strength to equate to 128-bit RC-4 or better. All cryptography technologies used must be published and approved by the general cryptographic community.
  - 21.3.5.1 Encrypt all UTC Information stored on Supplier computer systems and backup media
  - 21.3.5.2 Encrypt all UTC Information transferred across public networks.
  - 21.3.5.3 Encrypt all UTC Information stored on Supplier mobile computing devices (e.g. laptop computers, PDAs (personal digital assistants), etc.)
- 21.3.6 Not to store PII on any Supplier mobile computing devices (e.g. laptop computers, PDAs (personal digital assistants), etc.)
- 21.3.7 Conduct appropriate background checks on all non-Buyer personnel who will have access to the environment and/or UTC Information and approve those personnel based on the results of those checks. Supplier must disclose to Buyer the procedures used for those employees having access to the UTC Information.

- 21.3.8 Provide Buyer at the time of signing the Agreement with a termination plan that addresses how UTC Information will be returned to Buyer at the termination or expiration of the Agreement, including backup and archival information, and how all UTC Information will be permanently removed from Supplier's equipment and facilities. This plan should include supplying the data to Buyer in an industry recognized non-proprietary database and, if not, a free-of-charge license to use the proprietary data base software to access the data.
- 21.3.9 Describe at the time of signing of the Agreement how Supplier will meet Buyer's requirement for a secure authentication process for access to UTC Information or, for less sensitive information, where "Strong Password" data control is sufficient, describe how this requirement will be met.
- 21.3.10 Provide information and cooperation to Buyer in response to any subpoena, investigation or the like seeking UTC Information and provide information and assistance for Buyer to seek certification and the like relative to its information including information in the possession of Supplier. Supplier shall promptly notify Buyer upon the receipt of any request requiring that UTC Information be supplied to a third party.
- 21.3.11 Comply, within a reasonable period of time, with UTC Information security policies as amended from time to time.
- 21.4 Supplier shall not provide UTC Information to any other entity without the prior written approval of Buyer, except to the extent expressly permitted under Section 20 Proprietary Information hereof. A request for Buyer approval shall include agreement by Supplier and such other entity that all of the requirements of this provision are applicable to their performance and that Buyer shall have the right to perform the audits described above.
- 21.5 Should Supplier fail to meet the then current standards for information security, or should Supplier fail to pass a Buyer audit on information protection, then Buyer may immediately terminate the Agreement and/or any Order in accordance with Section 15 Termination for Default without prejudice to any other rights or remedies and shall have no further obligation to Supplier.
- 21.6 The foregoing provisions do not otherwise diminish or limit Supplier's obligations regarding the receipt, use, protection and/or disclosure of Buyer Proprietary Information otherwise set forth hereunder.

**22. Offset**

- 22.1 Buyer may use all or any part of the value of the Order, including the value of any subcontracts placed by the Supplier for the Order, for satisfying international offset obligations of Buyer, Buyer's Affiliates, or any entity that Buyer transfers such value to. Supplier may use the offset credit generated by the Order or the subcontracting of the Order only upon Buyer's written approval.
- 22.2 Supplier shall support Buyer in meeting Buyer's offset requirements in proportion to the value of the Goods supplied by Supplier to the value of the end item sold by Buyer into the particular country.



- 22.3 Upon Buyer's request the Supplier shall (i) report all subcontract sources outside the United States utilized in the fulfillment of this Order, including the name and location of each such source, amounts paid and committed thereto and identification of the Goods or Services procured, and (ii) require its subcontractors, including those at all lower tiers, to maintain records of the above information.

**23. Insurance**

- 23.1 Without limiting Supplier's duty to hold harmless and indemnify hereunder, Supplier agrees to secure and carry as a minimum the following insurance with respect to all work to be performed and Goods to be produced under the Order for the duration of the Order: (i) Workers' Compensation Insurance, inclusive of an alternate employer endorsement, in an amount sufficient by virtue of the laws of the U.S., foreign country, state, or other governmental subdivision in which the work or any portion of the work is performed and Employer's Liability Insurance in the minimum amount of \$1,000,000 for any one occurrence; (ii) Commercial General Liability Insurance including Premises Liability and contractual Liability, in which the limit of liability for property damage and bodily injuries, including accidental death, shall be at a minimum, a Combined Single Limit of \$5,000,000 for any one occurrence; (iii) if Supplier vehicles are used on Buyer's premises and/or used to accomplish work under the Order or otherwise on behalf of Buyer, Automobile Liability Insurance in which the limit of liability for property damage and bodily injuries, including accidental death, shall be a combined single limit of \$1,000,000 for any one occurrence; (iv) if Supplier or its subcontractors have Buyer's materials or equipment in its care, custody or control, Supplier shall have and maintain All-Risk Property Insurance in an amount sufficient to meet or exceed the value of such material; and (v) if Supplier is performing Professional Services on behalf of Buyer, Supplier shall maintain Professional Liability Insurance with a limit of no less than \$5,000,000;
- 23.2 The following shall apply if Supplier is providing product, component parts, materials or work to be incorporated in aircraft where such products, parts or materials are classified as Flight Safety Parts (FSP) or its equivalent or having Critical Characteristics (CC) or its equivalent in accordance with the current revision of ASQR-01, ASQR-09.1 and/or any documents referenced therein: Supplier shall maintain Aircraft Product Liability, Completed Operations Liability and, if applicable to the Goods or Services, Hangarkeepers Liability Insurance coverage in a minimum amount of Combined Single Limit of \$50,000,000 for any one occurrence and in the aggregate where applicable, including AV52 coverage (War Risks Insurance). Such insurance shall remain in effect for two (2) years after the expiration or termination of the Order.
- 23.3 All such insurance shall be issued by companies authorized to do business under the laws of the State or jurisdiction in which all or part of the Services are to be performed, and must have an AM Best financial rating of A- or better or an equivalent rating as produced by another rating agency acceptable to Buyer.
- 23.4 The insurance coverages described above shall be in form satisfactory to Buyer, and shall contain a provision prohibiting cancellation or material change except upon at least ten (10) days' (seven (7) days in the case of War Risks Insurance) prior notice to Buyer. All such insurance policies will be primary in the event of a loss arising out of the Supplier's performance of work and shall provide that where there is more

than one insured the policy will operate, except for the limits of liability, as if there were a separate policy covering each insured and shall operate without right of contribution from any other insurance carrier by Buyer. Certificates evidencing such insurance and endorsements naming UTC and the Buyer as an additional insured or, in the case of All Risk Property Insurance, naming UTC and the Buyer as a loss payee, shall be filed with Buyer upon execution of the Order and before commencement of any work hereunder, and within thirty (30) days after any renewals or changes to such policies are issued. To the extent permitted by law, Supplier and its insurer(s) agree that subrogation rights against UTC and the Buyer are hereby waived; such waiver shall be reflected on the insurance certificate. Supplier shall, if requested by Buyer, advise Buyer of the amount of available policy limits and the amounts of any self-insured retention.

- 23.5 The certificate of insurance shall identify the contract number or work to be performed and shall acknowledge that such coverage applies to liabilities incurred by supplier, its employees, invitees or agents under the Order and that such insurance shall not be invalidated by any act or neglect of the supplier whether or not such act or neglect is a breach or violation of any warranty, declarations or conditions of the policies.
- 23.6 Supplier shall require its subcontractors to maintain insurance in the amounts and types required by this provision.

**24. Disaster Recovery**

If Supplier is (i) providing Flight Safety Parts in accordance with the current revision of ASQR-01, ASQR-09.1, and/or any documents referenced therein; (ii) a sole source of supply; or (iii) providing products whose Lead Time exceeds one hundred twenty (120) days; or as otherwise directed by Buyer, Supplier shall develop and maintain a Disaster Recovery Plan acceptable to Buyer for the recovery and continuation of business related to the design, development, certification, manufacture, sale, use and/or support of the Goods furnished hereunder, in the event of a disaster or emergency. Such plan shall, among other things, prevent or limit the interruption of the supply of Goods in conformity with the requirements set forth herein. Supplier shall furnish a copy of Disaster Recovery Plan to Buyer upon request.

**25. Standards of Business Conduct**

25.1 Supplier shall adopt and comply with a code of conduct or policy statement regarding business conduct, ethics and compliance that satisfies, at a minimum, the principles and expectations set forth in the United Technologies Corporation Supplier Code of Conduct available at the UTC Supplier Site (<http://www.utc.com/Suppliers/Pages/Supplier-Code-of-Conduct.aspx>) ("Supplier Code of Conduct"). Supplier shall have management systems, tools and processes in place that (a) ensure compliance with applicable laws and regulations and the requirements set forth in the Supplier Code of Conduct; (b) promote an awareness of and commitment to ethical business practices, including, without limitation, the expectations set forth in the Supplier Code of Conduct; (c) facilitate the timely discovery, investigation (including cooperation with any Buyer initiated investigation involving Supplier), disclosure (to Buyer and others as appropriate) and implementation of corrective actions for violations of law, regulations, this Agreement, an Order, or the expectations set forth in the

Supplier Code of Conduct; and (d) provide training to its employees on compliance requirements, including the expectations set forth in the Supplier Code of Conduct. At Buyer's request, Supplier shall develop, adopt and comply with a technology control ("TCP") satisfactory to Buyer. Such TCP shall ensure that Supplier and its subcontractors comply with the terms of the Agreement (including the export control provisions of these Terms and Conditions). Supplier's compliance with the TCP shall be reviewed with Buyer at Buyer's request.

**26. Compliance with Laws**

- 26.1 Supplier shall comply with all applicable national, state, provincial, and local laws, ordinances, rules, and regulations applicable to the performance of the Order, except to the extent inconsistent with US anti-boycott laws, including (i) the manufacture or provisioning of Goods, (ii) the shipping of Goods and (iii) the configuration or content of Goods for the use intended by Buyer.
- 26.2 Supplier shall, at the earliest practicable time, notify Buyer in writing if Supplier is (i) suspended, debarred, or proposed for suspension or debarment from doing business with the U.S. Government, or (ii) listed or is proposed to be listed by the U.S. Government in any "denial orders," as a "blocked person," as a "specially designated national," or as a "specially designated terrorist" for U.S. export administration purposes (collectively, "Debarment"). Any such suspension or debarment shall constitute for the Buyer to terminate the Order under the Section entitled Termination for Default.
- 26.3 Supplier shall, at the earliest practicable time, notify Buyer in writing if Supplier is subject to any federal, state, or foreign government criminal proceeding alleging fraud or corrupt practices, once initiated by the filing of a formal charging document in a court of law; and further notify Buyer of any subsequent felony convictions or deferred prosecution agreement(s) related to the foregoing.
- 26.4 Supplier recognizes, consistent with the public policy underlying enactment of the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC countries"). Accordingly, Supplier shall comply with Section 1502 of the Act and its implementing regulations to the extent Supplier is not a "Registrant" as defined in the Act, Supplier shall comply with Section 1502 of the Act and its implementing regulations except for the filing requirements. In particular, Supplier has in place a supply chain policy and processes to undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into Goods it provides UTC; (2) due diligence of its supply chain following a nationally or internally recognized due diligence framework, as necessary, to determine if Conflict Minerals sourced from the DRC countries directly or indirectly support unlawful conflict there, and (3) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Supplier shall take all other measures as are necessary to comply Section 1502 of the Act and its implementing regulations including any amendments thereto.

**27. Applicable Law and Forum**

- 27.1 The Order shall be interpreted in accordance with the plain English meaning of its terms and the construction thereof shall be governed by the laws in force in the State of New York, USA without regard to conflicts of law principles except that §5-1401 of the New York General Obligations law will apply and except that the United Nations Convention of Contracts for the International Sale of Goods dated April 11, 1980, as amended to date, will not apply. Services shall be deemed to be Goods for the purposes of this paragraph (i.e., the application of governing law). Buyer may, but is not obligated to, bring any action or claim relating to or arising out of the Order in the appropriate court, or arbitration forum, if arbitration is required by law or the Order, in the jurisdiction described above, and Supplier hereby irrevocably consents to personal jurisdiction and venue in any such court, hereby appointing the pertinent Secretary of State or other applicable government authority as agent for receiving service of process. If Supplier or any of its property is entitled to immunity from legal actions on the grounds of sovereignty or otherwise, Supplier hereby waives and agrees not to plead such immunity in any legal action arising out of an Order or the Agreement.
- 27.2 Any action or claim by Supplier with respect hereto shall also be brought in the appropriate court in the jurisdiction described above, if Buyer so elects. Accordingly, Supplier shall give written notice to Buyer of any such intended action or claim, including the intended venue thereof, and shall not commence such action or claim outside of such jurisdiction if Buyer, within thirty (30) days from receipt thereof, makes its election as aforesaid. If Buyer and Supplier mutually agree to participate in alternative dispute resolution, Supplier agrees that all alternative dispute resolution proceedings shall take place in Connecticut.

**28. Export Control**

- 28.1 Supplier shall comply with the most current export control and sanctions laws, regulations, and orders applicable at the time of the export, re-export, transfer, disclosure or provision of Goods, Software, Technology or Services including, without limitation, the (i) Export Administration Regulations ("EAR") administered by the Bureau of Industry and Security, U.S. Department of Commerce, 15 C.F.R. parts 730-774; (ii) International Traffic in Arms Regulations ("ITAR") administered by the Directorate of Defense Trade Controls, U.S. Department of State, 22 C.F.R. parts 120-130; (iii) Foreign Assets Control Regulations and associated Executive Orders administered by the Office of Foreign Assets Control, U.S. Department of the Treasury, 31 C.F.R. parts 500-598; and (iv) laws and regulations of other countries (collectively, "Export Control Laws").
- 28.2 Supplier shall, upon request, deliver to Buyer a copy of any governmental export authorization ("Authorization") related to the Goods, software, technology or Services and of all provisions or conditions relating to that Authorization, including but not limited to: (i), any restriction on sublicensing, retransfer, resale or re-export, (ii) any requirement for non-disclosure agreements, and (iii) any limitation on individuals having access to Supplier's Goods, software, technology or Services. Supplier shall, upon request and at the earliest practicable time, deliver any information requested by Buyer in support of any Authorization related to the Goods, software, technology

or Services in support of Buyer's compliance activities, including Buyer's internal licensing processes.

- 28.3 Supplier shall provide Buyer with (i) the applicable Harmonized Tariff Schedule Number, and (ii) any one of (a) the United States Munitions List ("USML") category of such Goods, software, technology or Services that are controlled by the ITAR, (b) the Export Control Classification Number ("ECCN") of such Goods, software or technology that are controlled by the EAR, to include the ECCN of parts and components if such classification differs from the ECCN of the Goods or software, or (c) any analogous classification under any other applicable law. If Supplier is in the business of manufacturing, exporting or brokering USML items, Supplier shall maintain registration with the Directorate of Defense Trade Controls ("DDTC") as may be required by 22 C.F.R. §§ 122.1 and/or 129.3 of the ITAR and provide Buyer annually with its DDTC registration expiration date.
- 28.4 Supplier shall not export, re-export, transfer, disclose or otherwise provide or make accessible Buyer's technical data and/or hardware controlled by Export Control Laws ("Technical Data") to any persons, or entities not authorized to receive or have access to the data, services and/or hardware, including third country/dual national employees, subcontractors and sub-licensees, or modify or divert such Technical Data to any military application unless Supplier receives advance, written authorization from Buyer. Supplier shall not provide a defense service as defined by the Export Control Laws using any or all of Buyer's technical data and/or hardware. All of Supplier's subcontracts shall contain all the limitations of this paragraph and shall comply with all applicable export licenses, authorizations and Export Control Laws. Supplier has not made any commission payments on any sales in connection with Sikorsky products. Any subcontracts between Non-U.S. Persons in the approved country for manufacture of Goods, or provision of Services, shall contain all the limitations of this Section and shall comply with all applicable export licenses or authorizations. Upon Buyer's request, Supplier shall demonstrate to Buyer, to Buyer's reasonable satisfaction, Supplier's and Supplier's subcontractors' compliance with this Section and all Export Control Law. Supplier shall also promptly notify Buyer if it becomes aware of any failure by Supplier or Supplier's subcontractor's to comply with this Section and shall cooperate with Buyer in any investigation of such failure to comply. Upon completion of its performance under the Order, Supplier and its subcontractors shall destroy or return to Buyer all Technical Data. Without limiting the foregoing, Supplier must control access to Technical Data, technologies, tooling or materials, including without limitation, the Goods subject to the ITAR or the EAR until such point s (a) the technologies, tooling, materials, or Goods are rendered mutilated or scrapped in accordance with section 12.4 or reverted to a base alloy, and (b) the Technical Data and derived Technical Data has been cross-cut shredded, burned or chemically reverted to pulp in accordance with the requirements of Section 12.4, all of the foregoing in accordance with applicable Export Control Laws.
- 28.5 Supplier shall immediately notify Buyer in writing if Supplier is: (a) suspended, debarred, or proposed for suspension or debarment from doing business with the U.S. Government; (b) indicted or convicted for violations of the Export Control Laws; or (c) listed or proposed to be listed by the U.S. Government in any debarment or "denial order" that would make Supplier ineligible to participate directly or indirectly in transactions subject to the Export Control Laws or would prohibit Buyer from

participating in transactions subject to the Export Control Laws that directly or indirectly involve Supplier (collectively, "Debarment"). Such Debarment also includes, but is not limited to, Supplier's identification on a list maintained by the U.S. Department of the Treasury for "Blocked Persons," "Specially Designated Nationals" or similar designations, or identification as an individual or entity that is the subject of a Denial Order maintained by the U.S. Department of Commerce.

28.6 Supplier shall complete and provide to Sikorsky Form SA 1445, Sikorsky's Supplier Questionnaire.

**29. Toxic, Hazardous or Carcinogenic Substances**

29.1 Supplier represents and warrants that the Goods and any substances contained therein are not prohibited or restricted by, and are supplied in compliance with, any laws or regulations of any country or jurisdiction in the world, including but not limited to the United States, the European Union ("EU"), and nations adopting legislation similar to that of the EU, and that nothing prevents the sale or transport of the Goods or substances in Goods in any country or jurisdiction in the world and that all such Goods and substances are appropriately labeled, if labeling is required, and have been pre-registered and/or registered and/or authorized under the EU Registration, Evaluation, Authorization and Restriction of Chemicals regulation ("REACH") if pre-registration, registration and/or authorization is required.

29.2 In addition to complying with REACH, the EU's regulation of chemical substances (as is required under the Section hereto entitled "Compliance with Laws"), Supplier shall timely provide Buyer with all relevant information on the Goods so that the intent of REACH is met for communicating with downstream users as defined in Article 3(13) of REACH (any person established in the EU who uses a chemical substance in the course of his industrial or professional activities; the definition does not include the manufacturer, importer, distributor, or consumer), and in any case, Supplier shall provide all information necessary for the Buyer and/or any downstream user to timely and accurately fulfill their obligations under REACH.

29.3 Supplier shall promptly notify Buyer in writing of any Substances of Very High Concern (as such category is specified in REACH) that are present in any Goods at levels above 0.1% by weight of such Goods, where the Goods were supplied either: a) six months before the inclusion of the substances concerned on the REACH "Candidate List" or b) at any time after such inclusion on the Candidate List. In addition, Supplier undertakes to properly and timely inform Buyer of the inclusion in Annex XIV of REACH of a substance contained in the Goods. In such event, Supplier shall discuss with Buyer actions to ensure continued compliance with REACH. Subject to compliance with antitrust rules, Supplier shall use its best efforts to obtain and maintain authorization under REACH for use of such substances, on the condition that (i) Buyer confirms in writing that it requests Supplier to request or renew an authorization for such specific use(s), (ii) it can be demonstrated that the risks of such uses are adequately controlled and/or Supplier can otherwise be granted an authorization as specified in Article 60 of REACH. If these conditions are not met, Supplier shall seek to identify or develop alternatives in due time for validation and use by Buyer before the relevant "Sunset date" under REACH. The listing of a substance present in the Goods in the REACH Candidate List or in Annex

XIV of REACH shall not in itself constitute a valid cause for Supplier to fail to perform or delay performance under an Order pursuant to Section 45 hereof.

- 29.4 Supplier shall bear all costs, charges and expenses related to pre-registration, registration, evaluation and authorization under the REACH regulation of the chemical substances that are the subject of the Order.

**30. Design and Process Specification Efforts**

**Applicability:** The following provision is applicable when (i) Supplier is designing new parts for Buyer, (ii) Supplier is developing new specifications for Buyer, or (iii) Supplier is creating new work instructions, assembly instructions, repair instructions or required processes for Buyer. Supplier shall submit to Buyer's procurement representative a written report of materials of concern ("MOC Report") (as defined by Buyer's design requirements, Specifications, or similar requirements supplied by Buyer) that are used in the production of, or are in, products that are the subject of the design, development or processing efforts. The MOC Report shall be submitted in the format specified by Buyer prior to Buyer's Preliminary Design Review and again prior to Buyer's critical design review (or, if there are no such reviews, concurrently with Supplier's submission of the applicable drawings, specifications and/or instructions). The MOC Report shall give full details regarding the intended use of any materials of concern. Supplier shall cooperate with Buyer to consider other alternative materials as discussed at design reviews.

**31. News Releases/Publicity**

Supplier shall not make or authorize any news release, advertisement, or other disclosure that relates to the Order or the relationship between Buyer and Supplier, denies or confirms the existence of the Order or makes use of Buyer's name or logo, without the prior written consent of Buyer.

**32. Assignment**

Any assignment by Supplier of the Order, in whole or in part, without Buyer's prior written consent shall be null and void, and shall constitute a material breach of the Order.

**33. Setoff**

Buyer and its Affiliates may withhold, deduct and/or set off all money due, or which may become due to Supplier arising out of Supplier's performance under the Order or any other transaction with Buyer or its Affiliates.

**34. Covenants Against Kickbacks and Political Contributions**

Supplier has not offered or given and shall not offer or give anything of value (in the form of entertainment, gifts, or otherwise) to Buyer's employees or representatives for the purpose of obtaining the Order or favorable treatment under the Order.

Supplier represents and warrants that it has not made, nor will it make, or offer to make any political contributions, or pay, or offer to pay any fees or commissions in connection with these Terms and Conditions, the Agreement or any Order.

**35. Utilization of Small and Small Disadvantaged Businesses**

For work performed in the United States under Orders placed by United States Buyers, Supplier shall exercise reasonable commercial efforts to use small disadvantaged, minority, and women-owned enterprises. The overall target (i.e., dollar value, percentage of purchases, etc.) for purchases made from disadvantaged, minority, and women-owned suppliers may be negotiated as part of the Order. Upon request Supplier will provide monthly reports to Buyer detailing small disadvantaged, minority, and women-owned enterprises contracted in support of Supplier's obligations hereunder.

**36. Duty to Proceed**

Except as expressly authorized in writing by Buyer, no failure of Supplier and Buyer to reach an agreement regarding a dispute related to the Order shall excuse the Supplier from proceeding.

**37. Duty Drawback**

Supplier shall assign to Buyer any and all of Supplier's U.S. Customs duty drawback rights related to the Goods furnished hereunder in order for Buyer to seek duty drawback. Such duty drawback rights shall include rights developed by substitution and duty drawback rights obtained from sub-tier suppliers related to the Goods. Supplier shall inform Buyer of the existence of such duty drawback rights of which Supplier becomes aware. Supplier agrees to furnish upon request documents that Buyer reasonably requires, including, but not limited to, proof of importation and signed U.S. Customs Form 331 (Certificates of Manufacture), for Buyer to recover import duties related to the Goods. Supplier shall also provide such assistance to Buyer as requested in connection with the recovery of said import duties.

**38. Change in Control**

Prior to a potential change of control of Supplier and at least ninety (90) days prior to the proposed effectiveness of such change of control, Supplier will promptly notify Buyer in writing thereof, and provide the identity of the potential new controlling party and information on such party and the transaction as Buyer may request, consistent with applicable law and confidentiality restrictions. In the event there is a change in control with respect to Supplier or in the event that Buyer's competitor acquires an interest in Supplier, Buyer shall have the right to terminate the Order in whole or in part upon thirty (30) days written notice with Buyer's only obligation to pay for those conforming Goods and Services actually received prior to the expiry of such thirty (30) day period. A change in control of Supplier is deemed to have occurred if there is a change in the beneficial ownership, directly or indirectly, of twenty-five percent (25%) or more of the ownership interests in Supplier.

**39. Partial Invalidity/Unenforceability**

If in any instance any provision of the Order shall be determined to be invalid or unenforceable under any applicable law by any competent court or arbitration tribunal, such provision shall be ineffective only to the extent of such prohibition or unenforceability. The remaining provisions shall be given effect in accordance with their terms. The provision declared invalid or unenforceable shall be deemed to be restated



to reflect as nearly as possible the meaning and essence of such provision without rendering such amended provision invalid or unenforceable.

**40. Survival**

All rights, obligations, and duties hereunder, which by their nature or by their express terms extend beyond the expiration or termination of the Order, including but not limited to warranties, indemnifications, intellectual property (including rights to and protection of intellectual property and proprietary information), and product support obligations shall survive the expiration or termination of the Order.

**41. No Waiver**

No failure of any Party to exercise any right under, or to require compliance with, the Order, or knowledge of past performance at variance with the Order, shall constitute a waiver by such Party of its rights hereunder. No concession, latitude or waiver allowed by either Party to the other at any time shall be deemed a concession, latitude or waiver with respect to any rights unless and only to the extent expressly stated in writing, nor shall it prevent such Party from enforcing any rights in the future under similar circumstances.

**42. Remedies**

The rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the Parties may have at law or in equity.

**43. Order of Precedence**

The order of precedence provision in an Agreement, if any, shall prevail over this Section.

If there are any inconsistencies or conflicts in the provisions applicable to the Order, precedence shall be given in the following descending order: (i) the face sheets of the Order including the price, price adjustment terms, specifications, shipping, quality requirements, drawings, work statements, and modifications to the Agreement and/or these Terms and Conditions that specifically reference the Section being modified; (ii) terms of any Agreement under which the Order is issued; and (iv) these Terms and Conditions.

**44. Delays**

Whenever there is an actual delay or threat to delay the timely performance of the Order, Supplier shall immediately notify Buyer in writing of the probable length of any anticipated delay and take, and pay for, all activity to mitigate the potential impact of any such delay.

**45. Force Majeure**

- 45.1 Supplier shall be liable for any failure or delay in performance in connection with the Order, except where such failure or delay results from causes that are, at one and the same time, unforeseeable, unavoidable, outside of its control and without its fault

or negligence, provided Supplier gives Buyer, within three (3) days of Supplier's learning of such cause, written notice to the effect that a failure or delay by Supplier will occur or has occurred (an "Excusable Delay"). If a failure or delay in performance is caused by an event affecting any of Supplier's suppliers, such failure or delay shall not be excusable unless such event is an Excusable Delay as defined above and the good or service to be provided by such supplier is not obtainable by Supplier from other sources in time for timely delivery of the Goods to Buyer. Buyer may cancel without liability to Supplier its purchase of any Goods affected by Supplier's failure or delay in performance and, if the delay is expected to last for a period that could impact deliveries to Buyer's Customers, Buyer may cancel, without liability, any portion of or the entire Order.

- 45.2 Buyer shall be excused for any failure or delay in performance due to any cause beyond its reasonable control, including any cause attributable to Buyer's Customers.

**46. Subcontracting**

Supplier's subcontracting of all or substantially all of its responsibilities or obligations hereunder, without Buyer's prior written consent, shall be wholly void, invalid and totally ineffective for all purposes. In the case of any subcontracting or approved delegation of any of its responsibilities or obligations hereunder, Supplier shall perform all supply management activities that are necessary for the on-time delivery of Goods conforming to the requirements set forth herein. Supplier shall be solely and fully responsible for monitoring said suppliers under all provisions of the applicable subcontracts, and for ensuring that each of its suppliers comply with the requirements set forth herein. Supplier shall remain fully liable to Buyer for, and shall be Buyer's sole point of contact for, all aspects of proper performance of the Order, regardless of (i) any subcontracting, (ii) Buyer approval of the subcontractors, or (iii) Supplier's failure to provide for provisions in the relevant subcontracts that comply in substance with the requirements set forth herein.

**47. Dispute Resolution**

- 47.1 Except as provided below, prior to a Party initiating a formal legal proceeding relating to a dispute under an Order, that Party must provide the other with a written request for dispute resolution. Each Party shall, within five (5) calendar days after such written request is received, designate a representative who will be responsible for negotiating, in good faith, a resolution of the dispute. Should the representatives fail to reach agreement within thirty (30) calendar days of receipt of the request, vice presidents of each Party shall attempt to resolve the issue within sixty (60) calendar days of receipt of such written request.
- 47.2 Either Party may (i) resort to a formal legal proceeding for equitable relief at any time and (ii) institute litigation in order to avoid the expiration of any applicable limitations period or to preserve a superior position with respect to other creditors.
- 47.3 Each Party shall continue performing its obligations under the Order pending resolution of the dispute. The dispute resolution procedures set forth herein do not supersede, delay or otherwise affect any rights of termination that are expressly set forth in these Terms and Conditions.

**48. U.S. Government Provisions for Orders under U.S. Government Contracts**

For Orders issued under Prime Contracts with the U.S. Government or subcontracts at any tier under U.S. Government contracts, the provisions of the version of “**U.S. Government Provisions and Clauses for Orders Under U.S. Government Contracts**” in effect on the date of the particular Order shall apply. These provisions are made available on the Internet at the following URL and will be provided to Supplier in hard copy upon written request.

<http://www.sikorsky.com/Pages/SuppliersAndLicensing/Supplierresources/TermsandConditions.aspx>

The Parties recognize that the URL may change from time to time and agree that any such change will not affect the applicability of the material referenced. UTC agrees to provide the new URL upon Supplier’s request in the event of a change.

**49. Relationship of the Parties**

The relationship between Supplier and Buyer will be that of independent contractors and not that of principal and agent, nor that of legal partners. Neither Party will represent itself as the agent or legal partner of the Other Party nor perform any action that might result in other persons believing that it has any authority to bind or to enter into commitments on behalf of the other.

**SECTION IB – SIKORSKY SPECIFIC REQUIREMENTS**

**50. Additional Provisions for Orders Under U.S. Government Contracts**

- 50.1 CONTRACTOR MANPOWER REPORTING: The Office of the Assistant Secretary of the Army (Manpower & Research Affairs) operates and maintains a secure Army data collection site where Supplier must report ALL contractor manpower (including subcontractor manpower) required for performance of services in support of this Order. Supplier is required to completely fill in all the information in the format using the following web address: <https://cmra.army.mil>. The required information includes: (1) Supplier name, address, phone, e-mail address; (2) Estimated direct labor hours (including subcontractors); (3) Estimated direct labor dollars paid this reporting period (including subcontractors); and (4) Locations where Supplier and its subcontractors perform the work (specified by zip code in the United States and nearest city, country, when in an overseas location, using standardized nomenclature provided on website). As part of its submission, the contractor will provide the estimate total cost (if any) incurred to comply with this reporting requirement. Reporting period will be the period of performance not to exceed 12 months ending 30 September of each government fiscal year and must be reported by 31 October of each calendar year.
- 50.2 DD FORM 254: Concurrence of the Government’s Contracting Officer and PEO Aviation Security Office/Foreign Disclosure Officer must be obtained prior to issue of a Limited Access Authorization to a non-U.S. Citizen in compliance with the NISPOM. Controlled Unclassified Information as defined in DoD 5200.1.R.,

Appendix C, may be disclosed to U.S. persons who are employed by the Supplier, or to such employees who are foreign persons when requirements of export control and other laws are met. The Supplier is responsible for compliance with all applicable laws and regulations governing access to Classified Military Information or Controlled Unclassified Information. The Supplier is not authorized to release any data to foreign nationals or foreign representatives without an approved export license. If Supplier subcontracts with foreign entities in connection with this Order that require access to US Classified Military Information or Controlled Unclassified Information, then the Supplier shall provide Buyer with a listing of those foreign entities. The list, which will be provided to the Government, will also include the country of origin, work being performed, export license number and by name and citizenship of any third party national citizens performing on Supplier's subcontract. NSA Industrial COMSEC Manual, NSA/CSS Policy Manual 3-16, August 2005, applies to this contract. Supplier's access to DTIC information is restricted to contractual subject matter and SOW performance requirements. The Government will verify Supplier's need-to-know via submission of DD forms 1540 and 1541 to DTIC. All classified processing will be prepared on a computer accredited at the appropriate classified level.

- 50.3 SPECIALTY METALS: Supplier acknowledges that it has read the information contained on Buyer's Supplier Portal regarding specialty metals (as that term is used and defined in the DFARS). Supplier agrees that it will not incorporate into any Goods to be delivered under this Order, specialty metals not melted in the United States, its possessions, Puerto Rico, or a qualifying country. Supplier will flow down DFARS 252.225-7014, ALT I or DFARS 252.225-7009, as applicable to Buyer's Prime Contract, to its suppliers with instructions that Supplier's suppliers must flow DFARS 252.225-7014, ALT I or DFARS 252.225-7009, as applicable, to their suppliers. To ensure compliance, Buyer may require the following information from Supplier: (i) methods the Supplier uses to verify whether or not its Goods contain specialty metals; (ii) Supplier's methods of validating that it has received compliant hardware quotes from its suppliers; (iii) methods of flowing down specialty metals requirements to Supplier's suppliers; (iv) Supplier's record management practices regarding specialty metals compliance; (v) Supplier's inventory process for identifying and handling compliant hardware; and (vi) Supplier's specialty metals training requirements. Supplier shall immediately notify Buyer in writing if its Goods or any component thereof qualify for an exception to the specialty metals requirements.

Exceptions to DFARS 252.225-7014, ALT I, include the following:

*Qualifying Country* – End items, parts, components, etc., that are manufactured in a qualifying country listed in DFARS 225.872-1 are exempt from the ALT I requirements, regardless of where the specialty metals in such end items, parts, components, etc. have been melted. In this regard, note that the United States is not a qualifying country. If Supplier asserts that its Goods qualify under this exception, Supplier must provide Buyer with documents and information sufficient to support the application of this exception.

*Domestic Non-availability Determination* – DCMA maintains a list of Domestic Non-Availability Determinations (DNADs) approved by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) resulting from DCMA reviews of

contractor corrective action plans (CAPs). This list may be accessed at the following link: <http://www.dcmamilitary.com/dnad/>. If Supplier asserts that its Goods are covered by a DNAD, Supplier must provide Buyer with documents and information sufficient to support the application of this exception.

50.4 SUBCONTRACT AWARDS AND EXECUTIVE COMPENSATION - In accordance with FAR 52.204-10, Supplier (below referred to as "subcontractor") agrees to provide to Buyer (below referred to as "Sikorsky") the following information:

50.4.1 By the end of the month in which the subcontract award occurs, and in which any subsequent modifications to previously provided information occurs: (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company; (ii) Name of the subcontractor; (iii) Amount of the subcontract award; (iv) Date of the subcontract award; (v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract. (vi) Subcontract number (the subcontract number assigned by the Sikorsky). (vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district. (viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district. (ix) The prime contract number, and order number if applicable. (x) The applicable North American Industry Classification System code (NAICS).

50.4.2 By the end of the month in which the subcontract award occurs, and annually thereafter: (i) Name of each of the five most highly compensated executives for the subcontractor's preceding completed fiscal year; (ii) Total compensation of each of the executives listed at 50.4.2(i) above for the subcontractor's preceding completed fiscal year, or (iii) Formal representation that: (a) In the fiscal year preceding the subcontract award the Supplier did not receive 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-grants) and cooperative agreements; (b) In the fiscal year preceding the subcontract award the Supplier did not receive \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-grants) and cooperative agreements; or (c) The public has access to the information listed at 50.4.2 (i) and (ii) above through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 780(d)) or section 6104 of the Internal Revenue Code of 1986.

50.4.3 For purposes of 50.4.2(i), "executive" means officers, managing partners, or any other employees in management positions.

50.4.4 For purposes of 50.4.2(ii), "total compensation" means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (i) Salary and bonus (ii) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments. (iii) Earnings for services

under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees. (iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans. (v) Above-market earnings on deferred compensation which is not tax-qualified. (vi) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000;

50.4.5 50.3.5 The information provided to Sikorsky pursuant to the above provisions will be provided to the U.S. Government and will be made public by the U.S. Government. Failure to provide the information, or providing information that is inaccurate, will subject Supplier to liability under Federal law, and will be grounds for Sikorsky's termination of any U.S. Government subcontracts with Supplier.

50.5 Without Buyer's prior written consent, the Supplier shall not communicate with the Buyer's customer relating to the Buyer's existing or future contracts with the customer, including, but not limited to, through requests under the Freedom of Information Act.

**51. Sikorsky Security Requirements**

Supplier shall comply with the provisions of the Sikorsky Security Requirements, which are incorporated herein, made a part hereof and are located at:

<http://www.sikorsky.com/Pages/SuppliersAndLicensing/Supplierresources/TermsandConditions.aspx>

**52. Training**

Upon request, Supplier shall deliver training data for maintenance of the Goods including, but not limited to, training syllabus, length of training, recommended class size, instructor materials and training materials. The training material shall enable a technician to perform the recommended maintenance on the Goods. Upon request, Supplier shall deliver a proposal to conduct both practical hands-on training and classroom instruction at a location designated Buyer.

**53. Technical Support Services**

Upon request, Supplier shall deliver to Buyer the technical assistance necessary to service, maintain, inspect, repair, overhaul and operate the Goods including, without limitation:: (i) visits by Supplier's service representatives, including field service representatives to Buyer or Buyer's customers, to investigate specific problems with Goods, including without limitation, fault isolation, problem analysis, and rework and repair assistance; and (ii) participation by Supplier's technical representatives in operator conferences and similar technical, sales and marketing events as reasonably requested by Buyer.

**54. Technical Publications**

Supplier shall keep and maintain all technical publications for the Goods (“Technical Publications”) so that they are: (i) technically accurate, (ii) adequate to enable Buyer and Buyer’s customers to perform the functions provided for therein, and (iii) fully compliant with the FAA, NAA, EASA, or military specification requirements. Supplier shall validate all Technical Publications prior to their issuance and use. Upon Buyer’s request, Supplier shall deliver Technical Publications at no cost. Buyer hereby grants Buyer the unlimited right to use, reproduce or incorporate into end products the contents of Technical Publications.

**55. Ground Support Equipment (“GSE”)**

**Applicability:** Applicable only to Goods which require the use of GSE

- 55.1 Upon request, Supplier shall deliver: (i) a list of all the GSE associated with the Goods, (ii) a proposal for all GSE required in maintaining the Goods and (iii) a GSE illustrated tool and equipment manual consisting of an illustration, description and explanation of the function for each item of GSE (“GSE Manual”).

**56. Overhaul and Repair**

**Applicability:** Applicable to Goods that can be overhauled or repaired.

- 56.1 Supplier shall, commencing on the date of Order effectivity and continuing : (i) for no less than twenty five (25) years after the last Order is placed by Buyer for Goods, and (ii) thereafter, until fewer than five (5) end products incorporating Goods are in operation anywhere in the world, maintain the capability to repair and overhaul Goods (“Overhaul and Repair Services”) or provide items in exchange for Goods requiring Overhaul and Repair Services (“Exchange Goods”).
- 56.2 Upon request, Supplier shall cooperate with Buyer to develop, approve, and authorize Buyer owned and affiliated service centers as authorized warranty and repair stations for the Goods to perform Overhaul and Repair Services.

**57. Provisioning**

- 57.1 Upon request, Supplier shall: (i) provide recommendations for Goods provisioning to Buyer and implementation plans; and (ii) participate in pre-provisioning conferences with Buyer and operator(s) to review Supplier’s provisioning and implementation recommendations.

**58. Reliability**

**Applicability:** Applicable to Supplier-designed Goods.

- 58.1 Supplier shall, commencing on the date of Order effectivity and continuing: (i) for no less than twenty five (25) years after the last Order is placed by Buyer for Goods, and (ii) thereafter, until fewer than five (5) end products incorporating Goods are in operation anywhere in the world, compile real-time information and quantitative metrics for the reliability of the Goods including, where applicable, actual mean time

between failure ("MTBF") and actual mean time between unscheduled removal metrics ("MTBR"); reliability program status; conformity of Goods produced; Goods support; maintenance; overhaul; removal data including unscheduled removals; consumption of Goods and sub-components; and other data related to the reliability of Goods and support activities ("Reliability Metrics"). Supplier shall maintain Reliability Metrics in a database and establish a continuous improvement process reasonably acceptable to Buyer which incorporates reliability improvements into the Goods.

- 58.2 Upon request, Supplier shall deliver to Buyer Reliability Metrics in a format acceptable to Buyer, review Reliability Metrics and develop such corrective action plans as may be required.

**59. Obsolescence Management**

Supplier shall maintain, at its own expense, an obsolescence management program that includes an on-going review and identification of actual and potential obsolescence issues, including but not limited to, obsolescence of components, assemblies, sub-assemblies, and material for the Goods. ("Obsolescence Management Program"). The Obsolescence Management Program shall remedy all obsolescence issues arising for the Goods. Supplier shall perform all testing, qualification, non-recurring activities, and engineering services required for maintaining an Obsolescence Management Program. In no event shall remedying an obsolescence issue: (i) entitle Supplier to a price increase, (ii) entitle Supplier to make a claim for equitable adjustment, or (iii) waive, relieve or release Supplier from fulfilling all its duties under the Order including, without limitation, compliance with Specifications and Delivery Dates.

**60. Customs/Import Requirements**

- 60.1 Supplier shall comply with Buyer's Import and Shipping Requirements document, as set forth on Buyer's Supplier portal or otherwise provided by Buyer to Supplier.
- 60.2 Upon Buyer's request, Supplier shall provide, or assist in obtaining, certificates of origin, declarations, and/or affidavits necessary to support Buyer's claims for duty free or preferential duty treatment under international agreements, multi-lateral or bilateral free trade agreements, or other preferential tariff programs (e.g., Generalized System of Preferences, North American Free Trade Agreement (NAFTA), U.S. – Singapore Free Trade Agreements, U.S. Goods Returned, etc.).
- 60.3 Supplier shall maintain and make available to Buyer all records supporting any certificates of origin, declarations, and/or affidavits provided to Buyer as support for Buyer's claims for duty free or preferential duty treatment for five years after the date on which the aforementioned document(s) were provided.
- 60.4 Buyer shall have the right, on reasonable notice, to inspect and audit all records relating to the documents set forth in paragraphs 60.2 and 60.3, including documents establishing the value of all direct and indirect materials and costs used in the production of imported Goods. Where Supplier provides a written objection within three (3) days of Buyer's request to inspect and audit, Supplier shall provide access to such records to a third party consultant designated by Buyer.



**SECTION II - QUALITY ASSURANCE PROVISIONS**

The following Section II provisions apply to the Goods if identified in the Order through Buyer's web based supplier quality system Sikorsky Supplier Quality System ("SSQS"). The paragraph numbering sequence below corresponds to the applicable paragraphs as identified in the Order by SSQS.

- 1.) Supplier shall execute two original copies of Certificate of Compliance Form SA 876 ("Compliance Form") certifying that Goods meet all applicable Specifications and drawings requirements. Buyer may, at any time, examine the Compliance Form and the supporting documentation, and audit Supplier's procedures related thereto. If at any time Buyer requests a copy of the Compliance Form for any particular shipment under this Order, Supplier shall within three (3) days of receipt of such request deliver to Buyer a certified copy of the Compliance Form. Supplier shall retain the Compliance Form and all supporting documentation pursuant to the record retention requirements in Paragraph 2 below. Additionally, all inspection records, including but not limited to: test results, material certification, and supplier inspection checklists, which are representative of the Goods and establish they are in compliance with requirements of this Order, shall be all-inclusive and presented to Buyer upon presentation of the Goods for Buyer's inspection at Supplier's facility.
- 2.) Supplier shall maintain supporting evidence and documentation related to Goods for the period required by the Aerospace Supplier Quality Requirements ("ASQR") record retention requirement 40/10/8/4. The supporting evidence and documentation shall be made available to Buyer for inspection upon Buyer's request.
- 3.) Supplier shall create a Material Certificate ("Certificate") showing compliance with the requirements listed on the applicable Specifications for each Order, including chemical, physical, and other related requirements. The Certificate shall be signed by an authorized representative of Supplier. For Goods or other items undergoing inspection by Buyer at Supplier's facility, the Certificate shall affirm compliance with the chemical, physical and other requirements, and passage of any applicable tests listed on the applicable Specifications for each Order. The Certificate shall be retained on file at Supplier's facility in accordance with the applicable record retention requirements of Paragraph 2 above. The Certificate shall be made available to Buyer for inspection upon Buyer's request. For Goods or other items undergoing Buyer's inspection at Buyer's facility, the Certificate and or test reports shall be attached to the packing slip accompanying each shipment.
- 4.) If Supplier is manufacturing Goods for which Supplier retains design responsibility, minor non-conformances may be processed by the Supplier using Supplier's documented Non-conforming Material Control System. Notwithstanding the generality of the foregoing, Buyer retains design responsibility for the design and interface requirements on all Specification and source control drawings. Whenever required by Buyer, Supplier shall submit a Non-conforming Material Rejection Report SA342-series form per ASQR-01 Sikorsky Unique Supporting Documentation Appendix A ("NMRR/DR") at the earliest practicable time and always in sufficient time prior to the Delivery Date for dispositioning any design specification or interface non-conformances ("Disposition(ing/ed)"). Supplier shall always submit documentation to Buyer describing any non-conformances which affect or involve: (i), safety, performance, reliability, interchangeability, service life, weight or appearance (if appearance is applicable) of a

Good, relative to Supplier's design responsibility drawings, and (ii) any aspect of a Good which is, or has components which are, classified as critical parts by Buyer. Supplier shall submit a Request for Waiver or Deviation (DD Form 1694 or letter in a format acceptable to Buyer "Request") to a representative of Buyer's Purchasing Department, unless otherwise directed by the technical data specification cited in the Purchase Order. The Request shall be submitted to Buyer at the earliest practicable time and always prior to Delivery Date with sufficient time for Buyer's Program Management Team to analyze the non-conformity and formulate an action plan and/or appropriate Dispositioning.

- 5.) The provisions of Paragraph 6 set forth below are applicable.
  - a.) RESERVED
  - b.) Supplier shall execute a certification stating that all Goods supplied under this Order have been inspected and are in full compliance with all applicable drawings and Specifications. Supplier shall retain the certification on file at Suppliers facility pursuant to the record retention requirements in Paragraph 2 above, and shall deliver the certification to Buyer upon request.
- 6.) The Goods under this Order are subject to the requirements of ASQR-01 (UTC Common and Sikorsky Unique)/AS9100. Supplier shall flow down the applicable requirements of this Order to its lower tier suppliers. No changes shall be made to a lower tier supplier process, or operations by Supplier or its lower tier supplier(s) without submittal of qualification samples or initial deliveries. Any change permitted by Buyer shall be controlled in accordance with Buyer's policies and procedures. Supplier shall deliver to Buyer prior to delivery of any Goods that have been changed an independent certification that the changes conform to the requirements of this Order including but not limited to safety, performance, reliability, interchangeability, service life, weight or appearance (if appearance is applicable).
- 7.) All Flight Safety Parts and or assembly(s) containing Flight Safety Parts shall be in strict accordance with Flight Safety Parts requirements of the Purchase Order and the Flight Safety Parts requirements set forth below.
- 8.) Buyer may require that certain hidden dimensions/characteristics of Goods ("Reportable Characteristics") be individually inspected by Supplier at Supplier's location. The Reportable Characteristics which Supplier shall inspect shall be listed by Buyer on the Order, which Order shall contain the note "Supplier's Inspection Record for Reportable Characteristics, SA Form 5182 Required". For Orders with multiple shipments, the Form 5182 shall be completed by Supplier for, and delivered with, each shipment of Goods. The actual value or actual range of values for each Reportable Characteristic shall be recorded for each lot as specified on Form 5182. All Form 5182s shall be maintained on file by the Supplier in accordance with the record retention requirements in Paragraph 2 above and shall be made available to the Buyer upon request. If the Form 5182 requires recording of Method of Manufacture and Control, the Form 5182 shall be submitted to Buyer with each shipment, unless Buyer's inspection is performed at Supplier's facility. If Buyer's inspection is performed at Supplier's facility, Supplier shall maintain the Form SA5182 at Suppliers facility in accordance with the record retention requirements in Paragraph 2 above.

- 9.) If Buyer Dispositions a Good(s) in accordance with Buyer's Material Review Board procedures, and Buyer determines: (i) that the Goods are amenable to re-delivery to Buyer after Supplier's re-work/repair, (ii) an adequate inspection of the Goods, and/or materials, components, sub-assemblies, or other aspects thereof, cannot be conducted at the Buyer's facility, and (iii) that an inspection must occur at the Supplier's facility prior to re-shipment to Buyer, Supplier shall not re-ship the Goods to Buyer without: (i) permitting Buyer the opportunity to perform an inspection verification of the Goods, and/or materials, components, sub-assemblies, or other aspects thereof, and (ii) notifying Buyer seven (7) working days in advance of the date on which the Goods and/or materials, components, sub-assemblies, or other aspects thereof, will be ready for Buyer's inspection. All Goods which have been Dispositioned to the Supplier for re-work/repair shall immediately upon Supplier's receipt, at all times while in the possession of Supplier and at the time of re-shipment to Buyer, be:(i) clearly identified as Dispositioned and (ii) segregated from conforming Goods.
- 10.) The provisions (a.) – (e.) below apply to this Order
- a.) Supplier's purchase orders with subcontractors for subcomponents of Goods ("Subcomponents") shall indicate that the Goods are being supplied to Buyer and that the Subcomponents are Flight Safety Parts. Supplier's purchase order shall also identify all applicable documents drawings and/or Specifications, including revisions levels. Specifications and revision levels shall be obtained from the material and process index, the date of which is noted in SSQS. Certifications for all processes from Supplier's subcontractors shall also indicate Goods are for Buyer and that the Subcomponents are Flight Safety Parts.
  - b.) Goods designated as Flight Safety in accordance with SS9211, Flight Safety Parts source approval, contain characteristics and or processes classified as critical. The performance of any critical operation or process shall be specifically authorized by Buyer as evidenced by approved frozen planning. Supplier shall only use those sources approved by Buyer to perform specific critical operations or processes. Independent special process and test sources shall only perform work for which Buyer has granted prior written approval.
  - c.) Unless otherwise specified by Buyer's Supplier Quality Assurance Representative, All inspection requirements for Goods and Subcomponents shall be identified within SSQS and performed/ documented therein as required by Buyer's authorized inspectors.
  - d.) Identification and traceability to all Flight Safety Parts shall be in accordance with Buyer approved frozen planning, SS9211 and SS8798 in addition to a completed form SA5193 and shall be available upon the transfer of parts from Supplier's subcontractor to Supplier and shall be accompanied by an authorization to ship number from SSQS.
  - e.) Supplier's subcontractors shall grant access to facilities to Buyer and/or Buyer's authorized third party inspector for the performance of inspection and/ or facility audit. Additionally, Supplier's subcontractors are responsible for coordination and completion of requirements for government source inspection within their facilities as required prior to shipment.
- 11.) Supplier shall implement process certification in accordance with UTCQR-09.1, ASQR-01 Appendix E, and AS9103.

- 12.) Supplier shall implement subtier management procedures in accordance with ASQR-01 Sikorsky Unique Supporting Documentation Appendix D.
- 13.) RESERVED
- 14.) Buyer may require that Goods be manufactured using sources for special processes and laboratory procedures approved by Buyer ("Approved Sources"). Approved Sources shall be set forth on Buyer's Approved Source List for Special Processes and Laboratories ("Approved Source List"). Supplier shall conform to the most current Approved Source List. Buyer shall post the current edition of the Approved Source List at <https://suppliers.sikorsky.com/>. Buyer may, in its absolute discretion, issue a new superseding edition of the Approved Source List at any time. If a new superseding edition of the Approved Source List is issued, which affects the Goods, Supplier shall:
  - a.) If Goods are work in process, a process is contracted for, or there is a cost impact on this Order, Supplier shall promptly give written notice to Buyer's Purchasing Department representative, which notice shall specify the affected process and an estimate of the cost impact, and may request an adjustment in the cost; or
  - b.) If Goods are not affected by the circumstances set forth in paragraph (a) immediately above, proceed in accordance with the superseding edition of the Approved Source List.
  - c.) Supplier shall maintain an original or Certified True Copy of the Special Process Certification (herein in this paragraph "Certification") from the Approved Source used by Supplier for the Goods. Supplier or manufacturer of the goods shall maintain all Certifications on file in accordance with the record retention requirements set forth in Paragraph 2 above, and shall submit copies to Buyer upon request. The Certification shall state that Buyer's inspection is to be conducted at Supplier's facility. Supplier shall present the Certification to Buyer during source inspection. "Certified True Copy" means a complete copy (front and back) of the original including all terms, signature, and dates, to which is attached a signed statement that the copy has been compared with the original and that it is a true copy. The copy must be legible, reproducible, and printed on paper permanent in nature.
- 15.) RESERVED
- 16.) RESERVED
- 17.) RESERVED
- 18.) RESERVED
- 19.) RESERVED
- 20.) Buyer may require that Goods conform to an Acceptance Test Procedure(s) ("ATP"). If an ATP is required, Supplier shall deliver with the Goods a copy of a certificate ("ATP Certificate") certifying that the Goods have passed the ATP. The ATP Certificate shall also list the applicable Part Number of the Good(s), and the applicable ATP Number and the revision thereto. The original of the ATP Certificate shall be maintained at the

Supplier's facility in accordance with the record retention requirements set forth in Paragraph 2 above. Buyer may, at any time, witness an ATP, and review ATP results.

### **SECTION III – ADDITIONAL QUALITY ASSURANCE PROVISIONS**

The following Section III provisions apply to all Orders except as specifically qualified within the text of the provision.

#### **1. Flight Safety Parts**

**Applicability:** Applicable Only to Goods which are or contain Flight Safety Parts.

- 1.1. Buyer, in its absolute discretion, may designate a part as a flight safety part ("Flight Safety Part(s)") on the Order. The provisions of this paragraph, Flight Safety Parts, shall apply to all Flight Safety Parts.
- 1.2. If this Order is for Goods, which are, or contain, a Flight Safety Part(s), Supplier, at its own cost and expense (except as otherwise explicitly noted), shall:
  - 1.2.1. maintain, at all times, a Buyer-approved quality system. In addition to any requirements identified in Section II, Quality Assurance Provisions above, Supplier shall comply with the requirements of Buyer's Aerospace Supplier Quality Requirements ("ASQR") as set forth on the Order;
  - 1.2.2. as requested, deliver to Buyer for approval, which approval shall be within the sole and absolute discretion of Buyer, all records and documentation related to the manufacture, testing, storage, handling and all other matters related to the integrity and quality of the Goods, including operation sheets, training records, routing guides, parts traceability procedures, planning and processing documentation, and quality assurance and inspection processes and procedures (hereinafter collectively referred to as "Flight Safety Parts Documentation") relating to, or arising out of, Supplier's proposed performance of processes and/or characteristics of the Goods, which Buyer, in its sole and absolute discretion, identifies on the Order as critical ("Critical Characteristics or Processes"). Upon Buyer's approval of Flight Safety Parts Documentation, including those operations identified as Critical Characteristics or Processes, they shall be deemed "frozen";
  - 1.2.3. make such changes, including to Goods, Flight Safety Parts Documentation and/or Critical Characteristics or Processes as may be required to obtain and maintain Buyer's approval of the Flight Safety Parts Documentation;
  - 1.2.4. not make changes to its Flight Safety Parts Documentation, Critical Characteristics or Processes, or other aspects of the processes or characteristics of Goods frozen by the Buyer, or use any alternate material, without the prior written approval of Buyer, provided however, Supplier may make such minor changes as are expressly reserved to Supplier's discretion in the Flight Safety Parts Documentation;
  - 1.2.5. develop and maintain as part of its Flight Safety Parts Documentation, a process for verification and certification of compliance with all the requirements of the Flight Safety Parts Documentation, which shall include a system to certify and verify that each Critical Characteristic or Process is strictly complied with, and that the Goods

were manufactured/processed in compliance with the Flight Safety Parts Documentation;

- 1.2.6. maintain all Flight Safety Parts Documentation for a period of forty (40) years after delivery of the Goods; Buyer may from time to time inspect Supplier's books and records and audit them for compliance with the requirements of this Section; and
- 1.2.7. in the event that Buyer identifies a product safety concern relating to or arising from a Flight Safety Part, and in advance of commencing negotiations for requests for equitable adjustment or cost recovery, immediately comply with Buyer's direction to provide technical/engineering expertise, process design changes, and supply materials, components, and/or parts necessary to mitigate or alleviate the product safety concern.
- 1.3. If Supplier is responsible for the procurement of Flight Safety Parts for integration into the Goods, Supplier shall:
  - 1.3.1. procure Flight Safety Parts from sources which have been approved by Buyer for the manufacture Flight Safety Parts, as set forth in the Buyer's Quality System.
  - 1.3.2. have all Flight Safety Parts inspected by a Buyer approved inspector of Flight Safety Parts.
  - 1.3.3. comply with all rules set forth in Buyer's Quality System regarding the procurement of Flight Safety Parts, including but not limited to compliance with Buyer's SS9211 Specification, incorporated herein by reference.
  - 1.3.4. incorporate in all orders with its subcontractors for Flight Safety Parts, a requirement for compliance with Buyer's SS9211 Specification.
- 1.4. Supplier hereby, acknowledges, represents and warrants that it retains complete and sole responsibility for compliance with the provisions of this paragraph, and that any actions of Buyer related to any aspect of the matters issues addressed in this Section, including, approval of any documentation prepared by Supplier, or providing to Supplier recommendations, assistance, inspection, sources of supply, modifications or alternatives for documentation, characteristics or processes, shall not in any way limit, diminish, amend, modify or alter any duties of Supplier under this paragraph or the Order.
  - 1.4.1. Supplier shall not use, or seek approval for the use of, Non-Conforming Material, for which a NMRR/DR has been filed, in connection with a Critical Characteristic or Process.
  - 1.4.2. From time to time, Buyer may add or delete Critical Characteristics or Processes at no additional cost or liability. For those Critical Characteristics or Processes that are added, Supplier, at its own expense, shall comply with all the provisions of this Section.

## **2. Quality Assurance**

- 2.1. All physical and functional configuration of Goods shall comply with the requirements of the Order. Supplier shall, at Buyer's request and at no expense to Buyer, perform physical and functional configuration audits of Goods. Supplier shall retain the results of the audit in accordance with the record retention requirements set for in the ASQR and make them available to Buyer upon request. Supplier shall at its own expense correct all physical and functional configuration discrepancies immediately upon discovery.

### **3. First Article/Qualification Testing**

- 3.1. If required by Buyer, Supplier, at its own expense, shall test Goods, processes, procedures and facilities in conformance with the requirements of this Order including the performance of a first article inspection/qualification testing ("FAI"). Supplier's duty(ies), and obligation to perform a duty at its own expense, under this Paragraph shall be applicable to all FAI's including those required at the commencement of a Supplier relationship, introduction of a new part number or Good, or as a result of Supplier's action such as moving manufacture of Goods to another location.
- 3.2. At least thirty (30) calendar days before commencing a FAI, Supplier shall deliver written notice to Buyer of the time and location of the FAI. Buyer may witness the FAI, and Supplier, if requested by Buyer and at Supplier's own expense, shall make all commercially reasonable accommodations including making available suitable temporary office space for Buyer.
- 3.3. Upon Supplier's completion of the FAI, Supplier shall deliver the FAI test report in accordance with the delivery schedule in this Order. Supplier shall mark the FAI test report "FIRST ARTICLE TEST REPORT: Order No.\_\_\_\_, Lot/Item No.\_\_\_\_". Within sixty (60) calendar days after Buyer's receipt of the FAI test report, Buyer shall notify the Supplier, in writing, of its approval, conditional approval, or disapproval. Approval or conditional approval shall not relieve Supplier from complying with all requirements of the Specifications and all terms and conditions of this Order. If Buyer disapproves a FAI, Buyer shall set forth its basis for the disapproval.
- 3.4. If Buyer disapproves of a FAI, Supplier, upon Buyer's request and at its own expense, shall repeat the FAI and make any necessary changes, modifications and/or repairs to Goods, processes, procedures and/or facilities to complete successfully the FAI. If Buyer is performing the FAI, Supplier shall as requested by Buyer and at Supplier's cost and expense, make changes to Goods, processes, procedures and/or facilities in order for Buyer to complete successfully the FAI. All costs relating to additional tests or re-test whether performed by Buyer or Supplier shall be borne by Supplier.
- 3.5. Prior to Supplier's receipt of Buyer's approval of a FAI, Supplier's performance of any preparatory steps toward, or actual, performance of any portion of an Order including acquisition of sub-assemblies, materials or components, or the commencement, or completion, of production of Goods, and any risks associated with such efforts, (collectively "Speculative Steps") shall be at Supplier's sole risk. Without limiting the generality of the foregoing, the costs of Speculative Steps shall not be allocable to this Order for any reason including: (1) progress payments, or (2) if the Order is terminated for the convenience of Buyer, termination settlements.
- 3.6. Notwithstanding the generality of the expense allocation provisions of paragraph 3.5 above, if prior to Supplier's receipt of Buyer's approval of an FAI, Supplier is permitted or

required by Buyer, on terms mutually agreeable to the Parties, to perform Speculative Steps to the extent essential to meet the Order's Delivery Dates, Buyer's granting of permission to undertake Speculative Steps is not a waiver of any of Buyer's rights and does not relieve Supplier from any of the requirements of this Order. Notwithstanding Buyer's permission or requirement to commence Speculative Steps, if a FAI when finally conducted reveals deviations or differences from Order requirements, the Supplier shall make the required changes and/or replace all the effected Goods at no cost to Buyer including without limitation, retrofit, removal and reinstallation costs for items in Aircraft, and shall, at no cost to Buyer, make all modifications necessary to assure that Goods in production comply with the requirements of this Order.

- 3.7. The Goods delivered for FAI and those delivered as production quantities shall be manufactured/produced at the same facility. If Supplier wishes to change the location of manufacture of such Goods, it shall submit to a new FAI in accordance with the procedures set forth in this Section. Supplier shall bear all costs of the new FAI, including Buyers' quality and engineering costs to support the FAI.

#### **4. Configuration Control**

- 4.1. Supplier shall comply with the requirements set forth in this Order for controlling the configuration of Goods, supplies or items required under this Order.

#### **5. Buyer Approved Parts**

- 5.1. Supplier represents and warrants that if required to use specific sub-assemblies, parts and materials in Goods from a specific list including, the Qualified Parts List, Qualified Manufacturers List, Buyer's Specification/standard approved source of supply, Engineering Source Control drawing, Specification control drawing, Qualified Process List, Material and Process List or any applicable qualified products/processes list ("Approved Part(s)", and the lists singularly or collectively as the context requires "Approved List(s)") it has only used, and shall only use the specific Approved Part and that the Approved Part has been manufactured by, or procured from, source(s) on the specific Approved List(s).

#### **6. Solder**

- 6.1. Supplier, and Supplier's sub-tier suppliers, shall not use lead-free solder in Goods. For the purposes of this Section, solder shall be considered lead-free if it has a lead content of less than three percent (3%). Supplier may request a waiver of this duty by applying in writing to Buyer's Standards Department.

#### **7. Wire and Cable Use and Handling**

**Applicability:** If Supplier uses silver-plated copper wire in any application in Goods, Supplier shall comply with the following requirements.

- 7.1. At no time during handling shall the wire/cable (collectively "Wire") ends be exposed to moisture or water. A controlled environment shall be maintained throughout the harness/assembly (collectively "Harness") process to eliminate the necessity of end sealing the Wire. No Wire ends shall be terminated that show any signs or other visual evidence of "Red Plague". Once the packaging has been removed in an uncontrolled



environment, all manufacturers, distributors, sub-contractors and partners shall follow the end-seals requirements. Any Wire that has been processed and not terminated for modification, re-work or replacement, that is susceptible to an uncontrolled environment shall be put into a sealed bag with a desiccant. Any Wire that is in an uncontrolled environment and not terminated shall be inspected for evidence of Red Plague. The Wire bending radius shall not be violated at anytime during spooling, manufacturing, modification or re-work. The removal/stripping of Wire shall only be accomplished with approved tools, calibrated to assure that the center conductors and plating are not nicked or damaged.

7.2. Storage of Wire shall be in a controlled environment, which is defined as a temperature not to exceed 84 degrees Fahrenheit and humidity not to exceed 70%.

7.3. Packaging for Wire shall be as follows:

7.3.1. AWG sizes 10 and smaller

7.3.1.1. Cut and splice all lengths together (i.e., WECO splice)

7.3.1.2. Seal unplaced ends with heat-shrinkable end caps

7.3.1.3. Use plastic spools only

7.3.1.4. Bag each spool in clear plastic with desiccant, then individually box

7.3.1.5. All spools and box labels to include the following statement: "WARNING: MOISTURE DAMAGE WIRE (CABLE) – KEEP ENDS SEALED"

7.3.2. AWG sizes 8 and larger

7.3.2.1. Cut and splice all lengths together (i.e., WECO splice); then cover all splices with heat-shrinkable tubing

7.3.2.2. Seal un-spliced ends with heat-shrinkable end caps

7.3.2.3. Use 24" wood reels, with plastic wrap extending beyond the flanges and covering the spooled wire with a desiccant

7.3.2.4. All reels labeled to include the following statement: "WARNING: MOISTURE DAMAGE WIRE (CABLE) – KEEP ENDS SEALED"

7.3.2.5. The acceptance standards shall be per the SS 7505.

## **8. Counterfeit Parts**

8.1. Supplier shall use new and authentic materials, commodities, items, assemblies, sub-assemblies and components (collectively in this section "Materials") in Goods. Supplier shall purchase Materials directly from original manufacturers, manufacturer franchised distributors, or authorized aftermarket manufacturers (collectively in this section "Sellers") unless approved in advance by Buyer. Supplier, at the time of each individual Supplier quotation to a Seller, shall obtain from Seller: (i) the company name and

- location of the source of supply, and (ii) a representation that Seller is authorized to sell the Material.
- 8.2. Supplier shall maintain Material traceability including tracking of Materials to the Seller. Traceability shall also include: (i) the name and location of all of the supply chain intermediaries from the manufacturer to the direct source of the Materials for Supplier, and (ii) the manufacturer's commodity or item level identification for the item(s) such as date codes, lot codes, heat codes, serializations, unique item identifiers, or other batch identifications.
  - 8.3. Supplier shall initiate and maintain test and inspection activities to assure the authenticity of Materials, including: supply chain traceability and documentation verification; Visual examination; and applicable test and inspection activities.
    - 8.3.1. Supplier shall deliver to Buyer records evidencing tests and inspections performed and conformance of the Material to specified acceptance criteria. Tests and inspections shall be performed by persons that have been trained and qualified concerning detection of the types and means of counterfeiting and how to conduct effective product authentication.
  - 8.4. Certificate of Conformance – Supplier shall approve, retain, and provide copies of Seller's Certificates of Conformance (CoC) for Material, which at minimum, shall include the following:
    - 8.4.1. Manufacturer name and address;
    - 8.4.2. Manufacturer and/or Supplier's part description, part number and dash number, group number, or similar;
    - 8.4.3. Commodity or item level identification for the item(s) such as date codes, lot codes, heat codes, serializations, unique item identifiers, or other batch identifications; and
    - 8.4.4. Signature or stamp with title of seller's authorized personnel signing the certificate.
  - 8.5. Certificate of Authenticity – Supplier shall approve, retain, and provide copies of Certificates of Authenticity (CoA, which at minimum, shall include the following:
    - 8.5.1. Contract Number
    - 8.5.2. Manufacturer name and address;
    - 8.5.3. Manufacturer and/or buyer's part number and dash number, group number, or similar;
    - 8.5.4. Item Nomenclature, Quantity, Unit of Measure; and
    - 8.5.5. Actual Manufacturer CAGE Code, Design Control Activity CAGE Code;
  - 8.6. Certificate of Conformance and Traceability (U.S. Department of Defense Contracts) – Applicability: This clause is applicable to all contracts for Qualified Products List (QPL) or Qualified Manufacturers List (QML) - controlled materiel, and applies: (i) regardless of the point of inspection designated in the contract award, and (ii) both to contracts awarded directly to a manufacturer listed on the applicable QPL/QML and to suppliers (e.g., distributors) not listed as approved manufacturers on the applicable QPL/QML.
    - 8.6.1. Supplier shall use QPL/QML Material that is in strict conformance to the requirements set forth and/or referenced in the item description, including applicable revisions and slash sheets. Supplier shall deliver a Certificate of Conformance and Traceability (CoC/T) with the information and documentation required by the applicable specification that : (i) references the contract number and includes a certification signed by the approved QPL/QML manufacturer, and (ii) if the Material is not procured directly from the approved manufacturer, all additional documentation required by the specification must be provided to establish traceability from the QPL/QML manufacturer through delivery to the Buyer. Supplier shall deliver the original and two copies of the CoC/T to the Buyer at the time of delivery.

**9. Cap and Plug Utilization**

- 9.1 The Parties acknowledge that: (i) foreign object damage (“FOD”) effects safety, quality and performance of Aircraft and (ii) caps and plugs (“Caps and Plugs”) are necessary for the protection of Goods during handling, shipping and storage and to reduce FOD. Supplier shall utilize Caps and Plugs on Goods as it deems necessary, or as reasonably directed by Buyer. The use of Caps and Plugs shall be in accordance with SS 3995.

**10. NMRR/DR Charges**

- 10.1. Notwithstanding any provision of this Order to the contrary and without limiting any of Buyer’s other rights or remedies, Supplier shall pay to Buyer all damages, costs and expenses incurred by Buyer as a result of its failure to perform its duties herein. In addition, if Buyer processes an NMRR/DR, the Parties acknowledge that the costs and expenses associated with the NMRR process are not subject to exact calculation and that a charge of \$1000 may be assessed by Buyer as liquidated damages solely for processing each NMRR/DR. The NMRR/DR liquidated damages shall be in addition to, and shall neither be a waiver of, nor otherwise limit, Buyer’s ability to pursue, claims for other damage against Supplier resulting from its failure to perform its duties herein.

**THESE TERMS AND CONDITIONS CONSTITUTE THE STANDARD TERMS AND CONDITIONS OF PURCHASE FOR SIKORSKY AIRCRAFT CORPORATION, AND ARE INCORPORATED IN THEIR UNMODIFIED ENTIRETY BY REFERENCE INTO ALL SIKORSKY AIRCRAFT CORPORATION PURCHASE ORDERS UNLESS OTHERWISE SPECIFIED THEREON. ANY MODIFICATION OF THESE TERMS AND CONDITIONS SHALL REQUIRE THE SIGNATURE OF AN AUTHORIZED REPRESENTATIVE OF EACH PARTY IN THE SPACE BELOW. THESE TERMS AND CONDITIONS SHALL NOT BE BINDING UPON THE PARTIES UNTIL THE ISSUANCE OF AN ORDER FROM BUYER TO SUPPLIER.**