

## 1. DEFINITIONS

As used herein, the word « Buyer » means Air Data inc., the word « Seller » means the supplier to which this *Purchase Order* is issued, the word « Articles » means the articles, products, materials, supplies, parts, assemblies, technical data, drawing, services or other items covered by this purchase order and the words « Order » or « Purchase Order » mean this purchase order (in which these *Standard Terms and Conditions of Purchase* are incorporated by reference or attached).

2. **ACCEPTANCE – ENTIRE AGREEMENT – MODIFICATION.** This Order is for the purchase by Buyer and sale by Seller of the Articles described in this Order. Acceptance of this Order shall be limited to the terms and conditions contained herein and incorporated herein by reference. This Order shall be deemed accepted upon the return of the acknowledgement copy of this Order or the commencement of performance by Seller. Buyer rejects any additional or inconsistent terms and conditions offered by Seller at any time, whether or not such terms or conditions materially alter the Order and irrespective of Buyer's acceptance of or payment for Seller's items or services. These terms and conditions constitute the entire agreement between the parties and no change to or modification of this Order shall be binding upon Buyer unless in writing and signed by an authorized representative of Buyer's procurement or purchasing office at Buyer's place of business issuing this Order.
3. **NEW MATERIAL.** Seller warrants that none of the Articles furnished under this Order are surplus, used remanufactured or reconditioned or of such age or so deteriorated as to impair the usefulness or safety thereof, unless otherwise specifically stated in this Order. Unless otherwise provided in this Order, **THE PRICES APPEARING HEREIN INCLUDE ALL PACKAGING, CRATING AND FEDERAL, STATE AND LOCAL TAXES, IF APPLICABLE, AND ARE FIRM FOR THE DELIVERY PERIOD SHOWN.**
4. **MATERIAL, EQUIPMENT, TOOLS AND FACILITIES.** Title to property furnished to seller by Buyer or paid for by Buyer under this Order, as well as any replacements thereof, (all hereinafter referred to as the « Property ») shall be vested in Buyer with the right to demand possession at any time. Seller will use said Property only in the performance of work for Buyer. Seller shall bear the risk of loss of all Property while in Seller's custody or control and while in the custody or control of Seller's suppliers. All Property is subject to removal and return at Buyer's written request, in which event Seller, at Buyer's expense, will prepare such Property for shipment and deliver them to Buyer in the same condition as originally received by Seller, reasonable wear and extent necessary for performance of this Order. Seller shall establish and maintain a system to control, protect, preserve and maintain all-Buyer-owned property. Buyer shall have the right to enter Seller's premises at all reasonable times to inspect its property and Seller's records with Articles delivered by Seller must be in strict accordance with the requirements of this Order. Upon completion or termination of this Order, all Property will be retained by Seller at its expense until disposition directions are received from Buyer. Seller will pay personal property taxes on all Articles in its possession.
5. **DESIGNS, DRAWINGS AND DATA.**
  - A) With respect to Articles for which any technical information, written, oral or otherwise, i) has been supplied to Seller by or on behalf of Buyer; or ii) Seller has designed at Buyer's expense; or iii) Seller has designed specifically to meet Buyer-furnished technical requirements (hereinafter designated « information »). Seller in consideration of Buyer's furnishing of such information and/or design funding, agrees that it will not sell such Articles (or similar interchangeable or substitute Articles, or parts thereof, for use in Buyer's products) to anyone other than Buyer, either as production, spare or repaired Articles, without Buyer's prior written consent, except as provided in Paragraph C., below.
  - B) Information prepared by Seller specifically in connection with performance of this Order, including original works of authorship created by Seller, are considered « works made for hire » under Canada's Copyright Law. Buyer shall be deemed the author of such works. If any such work is determined by a



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court of competent jurisdiction not to be a work made for hire, this agreement shall operate as an irrevocable assignment by the author of such work to Buyer, of the copyright in the work, including all right, title and interest throughout the world.

C) Where such information is furnished to Seller's suppliers for use in performance of Buyer's Orders, Seller shall insert the substance of this paragraph 5 in all such orders to Seller's subcontractors.

6. **CHANGES.** Buyer may at any time, by a written *Change order*, without notice to any sureties, make changes in any one or more of the following: (i) drawings, designs, specifications, where the Articles to be furnished are to be specially manufactured for the Buyer in accordance therewith; (ii) method of shipment or packing; (iii) place or time of inspection, delivery, or acceptance; and (iv) the amount of any Buyer furnished property. If any such change causes an increase or decrease in the cost of or time require for performance of this Order, whether or not changed by the *Change order*, an equitable adjustment shall be made in the price or delivery schedule or both and this Order shall be modified accordingly. No claim by Seller for adjustment hereunder shall be allowed unless made in writing for a specified amount within twenty (20) days from the date notice of any such change is received by Seller. If Seller considers that the conduct, statement or direction of any of Buyer's employees constitutes a change hereunder, Seller shall notify Buyer's Subcontract Administrator. Only Buyer's Subcontract Administrator has authority to approve a change. Any change made by Seller without such written approval shall be deemed voluntary by Seller and not compensable in the cost of or time required for performance. Nothing in this clause shall excuse Seller from proceeding with performance of this Order as changed.

Notwithstanding the above or any other provision of this Order, the Seller hereby agrees that no changes to the Articles that may be required in order to meet the specified performance requirements of this Order shall entitle the Seller to any adjustment in either price or delivery.

7. **STOP WORK ORDERS.** Buyer may at any time by written notification require Seller to stop all or any part of the work under this Order for a period of up to ninety (90) days after delivery of such *Stop Work order*, and for any further period as the parties may agree. Immediately upon receipt of such *Stop Work order*, Seller shall comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work stoppage. At any time during such period, Buyer may, in whole or in part, either cancel the *Stop Work order* or terminate the Order in accordance with subparagraph A or B of the "Termination" clause of this Order. To the extent the *Stop Work order* is canceled or expires, Seller shall resume work. If a *Stop Work order* is the sole and exclusive cause of a material change in cost or delivery, an adjustment shall be made in the price (excluding profit) or the delivery schedule, or both and this Order modified accordingly; provided, however, that no adjustment in price or delivery shall be made under this provision if (i) the work would have been otherwise interrupted or delayed or (ii) such adjustment is available or expressly excluded under any other provision of this Order. No claim for adjustment shall be allowed unless submitted to Buyer in writing in a specified amount within twenty (20) days after the work is terminated or the *Stop Work order* expires or is canceled, whichever first occurs.

8. **DELIVERIES AND SHIPMENTS.**

- A) Delivery of the Articles and related data and/or documentation in accordance with the schedule is a material requirement of this Order. **TIME IS OF THE ESSENCE.** Seller shall not, without Buyer's prior written consent, manufacture or procure material in advanced of Seller's reasonable flow time. Seller will at its expense ship by express or air shipment or by the most expeditious way if the delivery schedule is endangered for any reason other than Buyer's fault. Buyer reserves the right to reject all or any part of any delivery that varies from the quantity authorized by Buyer for shipment. All Articles shall be packaged in accordance with Buyer's instructions or, if none are specified, in accordance with good commercial practice in a manner sufficient to ensure arrival in an undamaged condition. Items shipped in advance of Buyer's delivery schedule may be returned at Seller's expense. Seller shall give notice of shipment to



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Buyer at the time of delivery of any shipment of Articles to a carrier for transportation. Title and risk of loss to Articles shall pass to Buyer at the F.O.B. point specified on the face of this Order, unless earlier passed pursuant to other provisions of this Order.

B) In the event that Supplier fails to deliver any product on the promised delivery date in full conformance, Seller shall pay to Buyer, as liquidated damages and not as a penalty, five (5) percent of the price of the delayed order for each week of delay, up to a maximum of twenty-five (25) percent of the price. Buyer shall be entitled to set-off such liquidated damages against any payment due to Seller. A fraction of a week shall be counted as a full week for purposes of calculation of the liquidated damages. The delay shall be calculated beginning from the first working day following the promised date. A delay of less than one (1) week shall not lead to imposition of liquidated damages.

9. **PERFORMANCE ASSURANCE PLAN.** At Buyer's direction, Seller will provide Buyer with a Performance Assurance Plan prepared in accordance with procedures established by Buyer showing Seller's work in process and yield factors for each major process step. This plan will be imposed by Buyer where, in Buyer's opinion, there is a significant risk in meeting performance or delivery requirements. The Performance Assurance Plan will demonstrate Seller's work in process and yield factors in Seller's format.

10. **INSPECTION.** Notwithstanding (i) payment, (ii) passage of title, or (iii) prior inspection or test, all Articles are subject to final inspection and acceptance or rejection by Buyer at Buyer's facility. At all reasonable times including the period of manufacture, Buyer, its customers, and/or representatives of the Federal Aviation Administration, Transport Canada or other cognizant aviation regulatory bodies may inspect and/or test the Articles to be furnished hereunder at the places where the work is being performed, including those of the Seller's suppliers, and Seller shall provide, without additional charge, reasonable facilities and assistance for safe and convenient inspection and test. Buyer may inspect 100% or a sample of all Articles or any lot of Articles at Buyer's option, and Buyer shall have the right to reject all or any portion of the Articles or lot of Articles if any such inspection reveals them to be, in Buyer's sole opinion, defective or nonconforming. Seller shall provide and maintain a test and inspection system acceptable to the Buyer and its customer, if required. Records of all inspection work by Seller shall be kept complete and available to Buyer and its customers during the performance hereof and for four (4) years after final payment by Buyer or for such longer period as may be specified elsewhere herein.

**11. WARRANTY**

A) Seller warrants to Buyer, its successors and customers that for a period of twenty-four (24) months after delivery of products or completion of services or for such longer period offered by Seller, that all Articles furnished to Buyer will be free from defects in material and workmanship, will meet all functional and performance requirements and to the extent this Order calls for services to be performed, that such services will be free from defects in workmanship, will meet all of the requirements of this Order and will be performed, that such services will be free from defects in workmanship, will meet all of the requirements of this Order and will be performed to the highest standards of workmanship in the industry (all of which are hereinafter collectively called "conforming products and/or services").

B) In the event conforming products and/or services are not furnished, within twenty (20) days after the nonconforming product is returned to Seller or notice to Seller of a nonconforming service is received, Seller shall repair or replace such nonconforming products and/or correct such nonconforming services. The failure of Seller to repair or replace and redeliver such nonconforming products and/or to correct such nonconforming services within such thirty (30) days period shall entitle Buyer at its election and in addition to any other rights or remedies it may have at law or in equity, to have such nonconforming products repaired or replaced or such nonconforming services, Seller shall be responsible for the costs of removal, disassembly, failure analysis, fault isolation, reinstallation, re-inspection and retrofit required to deliver conforming products and/or services.



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- C) The warranty period shall be suspended upon notice that nonconforming products have been furnished until they have been repaired or replaced and redelivered to Buyer postage or freight prepaid, or in the case of nonconforming services, have been corrected. The un-expired portion of the warranty shall be applicable to the repaired, replaced or corrected conforming products and/or services.

**12. TERMINATION**

- A) Buyer may terminate this Order in whole or in part at any time by written or facsimile notice stating the extent and effective date of such termination. Buyer shall have the right to audit all elements of any termination claim and Seller shall make available to Buyer or Buyer's representative on request all books, records, and papers relating thereto.
- B) Buyer reserves the right to terminate this Order in whole or, from time to time, in part for Seller's default (i) if Seller fails or refuses to perform in accordance with any of the requirements of this Order or to make progress so as to endanger performance hereunder or (ii) if Seller becomes insolvent or suspends any of its operations or if any petition is filed or proceeding commenced by or against Seller under any state, province or federal law relating to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors. Any such termination will be without liability to Buyer except for completed Articles delivered and accepted by Buyer, payment for which can be set off against damages to Buyer. Buyer may require Seller to transfer title and deliver to Buyer any or all property produced or procured by Seller for performance of the work terminated and Seller shall be credited with the reasonable value thereof not to exceed Seller's cost or the contract price, whichever is less. Seller will be liable for damages caused by or resulting from its default including but not limited to excess costs of re-procurement. If after a default termination, it is determined that Seller was not in default, the termination shall be considered to have been made pursuant to subparagraph A of this clause. Buyer or its designee shall have the right to audit all elements of any termination claim and Seller shall make available to Buyer or Buyer's designee on request all books, records and papers relating thereto. Termination of the Order for default shall be without prejudice to any other rights and remedies of the Buyer under statute or common law.
- C) To the extent, this Order is not terminated pursuant to subparagraphs A or B above, Seller shall continue performance.

13. **EXCUSABLE DELAYS.** Neither party shall be in default for any delay or failure to perform hereunder due to causes beyond its control and without its fault or negligence : provided that any delay or failure to perform caused by the default of a supplier of the Seller at any lower tier shall be excused only if it is beyond the control of both Seller and such supplier and without the fault or negligence of either and the Articles to be furnished are not obtainable from other sources in sufficient time to permit Seller to meet the delivery schedule; and provided further, that Seller furnishes prompt written notice to Buyer of the occurrence of any such cause which will or may delay Seller's performance. If delivery of any Article is delayed by any excusable delay for more than three (3) months. Buyer may without any additional extension cancel all or part of any Order with respect to the delayed product and exercise any of its remedies in accordance with paragraph 12 B) provided however, that the Buyer shall not be entitled to monetary damages or specific performance where Seller's breach in the result of an excusable delay per this paragraph.

14. **PATENT, TRADEMARK AND COPYRIGHT INDEMNITY.** Seller shall indemnify and hold harmless Buyer from any and all damages, costs, including legal fees losses and liabilities resulting from a suit or proceeding from infringement of any patent, trademark or copyright by reason of the sale or use of any product sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit or proceeding if Seller does not undertake the defense thereof; provided that Seller is promptly notified of any such suit and, Buyer offers Seller full and exclusive control of the defense of such suit or proceeding when products of Seller only



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are involved therein or the right to participate in the defense of such suit or proceeding when products other than those of Seller are also involved therein; except that this indemnity shall not extend to infringement resulting solely from Seller's compliance with Buyer's specific designs, processes or formulas. In the event of an injunction or restraining order, Seller shall, at its own expense, either procure for Buyer the right to continue to sell and use the product, or replace or modify the product so that it becomes non-infringing. Seller shall also indemnify Buyer's customers and agents for such infringement if and to the extent that Buyer has agreed so to indemnify them, but to no greater extent that Seller has indemnified Buyer herein and under the same conditions as set forth herein.

15. **INDEMNIFICATION AND INSURANCE.** Seller will indemnify and save harmless Buyer, its directors, officers, employees, agents and invitees from and against all liability, demands, claims, losses, costs damages and expenses, including but not limited to attorneys' fees, by reason or on account of property damage, death and personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with the performance of this Order that is occasioned by the actions or omissions of Seller or its subcontractors or suppliers of any tier. Seller will maintain and carry liability insurance which included but is not limited to, commercial general liability (including product liability and for services to be performed, completed operations liability) in a sum no less than \$5 million, automobile liability in a sum no less than \$5 million, workmen's compensation in an amount no less than the applicable statutory minimum requirement and employer's liability in an amount of no less than \$1 million, with insurance carriers acceptable to Buyer, Seller will, if requested by Buyer furnish certificates of insurance from its carrier on the foregoing coverages, which shall provide that any such coverage shall not be changed without thirty (30) days advanced written notification to Buyer from the carrier.
16. **COMPLIANCE WITH LAWS**
- A) Seller shall comply with all applicable federal, state, province and local laws, executive orders, rules and regulations during performance of this Order.
  - B) Seller warrants that all representations and certifications furnished by Seller as required by law or regulation in connection with this Order are accurate, current and complete as of the effective date of this Order, and that to Seller's knowledge no person has been paid a kickback or illegal gratuity in connection with this Order. Seller agrees to indemnify and hold Buyer and its customers harmless for any loss damage or expenses sustained because any certification or representation herein or required by law or regulation made by Seller was inaccurate, non-current or incomplete or due to Seller's non-compliance with any applicable law or regulation.
17. **PAYMENT TERMS.** Payment periods and cash discount periods will be computed from either the date of delivery or acceptance of the Articles ordered or the date of receipt of correct and proper invoices prepared in accordance with the terms of the Order whichever is the latest. The payment date will be delayed on a day of payment delay-for-day of lateness basis for any Article that is delivered later than called for by the contract schedule.
18. **DESIGN CHANGES.** During performance of this Order, Seller shall not make any changes in the design of Articles to be furnished by Seller under this Order without advance written notification to and written approval of the Buyer. The above requirement applies whether or not there is a cost impact associated with the change and regardless of the type of change involved, including product improvements.
19. **ASSIGNMENT AND SUBCONTRACTING.** Any assignment or subcontract for a majority of the materials and/or labor by Seller of, or under this Order, shall be void unless consented to by Buyer in writing.
20. **CHOICE OF LAW.** The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the Province of Quebec, Canada, excluding any conflicts of law rules which



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may refer such construction to the laws of another jurisdiction. Buyer and Seller hereby attorn to the non-exclusive jurisdiction of the courts of the Province of Quebec.

21. **DISPUTES.** Except as otherwise specifically provided in this Order, any dispute concerning a question of fact and/or law arising under this Order that is not disposed of by agreement of the parties shall be decided by arbitration under the rules and procedures of arbitration center. To the extent that the issue in dispute between Buyer and Seller is related to an issue in dispute between buyer and its customer, Seller agrees to a stay in arbitration proceedings until Buyer's dispute with its customer is finally resolved, either through settlement or judgment. Pending settlement or final decision of any such dispute. Seller shall proceed diligently with the performance of this Order in accordance with the directions of the Buyer.
22. **RELEASE OF INFORMATION TO PUBLIC.** Seller shall not, without the prior written consent of Buyer, make any release of information concerning this Order or any other information related to the Buyer (other than to Seller's employees and subcontractors that is required for the performance of their duties), including providing copies of this Order or identifying the Articles sold by Seller to Buyer, nor use the name of Buyer in any advertising or publicity, except as may be necessary to comply with a subpoena or other proper mandatory legal demand.
23. **SETOFF.** Buyer may setoff any amount due from Seller to Buyer, whether or not under this Order from any amounts due to Seller under this Order.
24. **NONWAIVER.** No failure by Buyer to assert its rights under any provision of this Order, or failure of Seller to perform any provision of this Order shall be effective as a waiver thereof unless consented to in writing by the Buyer; nor shall any such waiver constitute an advance waiver of any other provision or failure to perform.
25. **ORDER OF PRECEDENCE.** In the event of any conflict among the provisions of this Order, the following order of precedence shall apply in interpreting this Order.
  - a) The text of the *Purchase Order* document;
  - b) Any Special or Supplemental Terms and Conditions incorporated by reference in the *Purchase Order* document;
  - c) These Standard Terms and Conditions of purchase; and
  - d) Other Contract Documents, if applicable.
26. **RIGHTS AND REMEDIES OF BUYER.** The rights and remedies of the Buyer set forth herein shall be in addition to any other rights and remedies provided in law or equity and the failure or delay by Buyer to exercise any rights or remedies under this Order shall not operate as a general waiver thereof.

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