

VISIONEERING INCORPORATED
STANDARD PURCHASE ORDER TERMS AND CONDITIONS

VISIONEERING PURCHASE ORDERS ("ORDER") SHALL BE CONSTRUED AS AN OFFER TO PURCHASE WHICH CAN ONLY BE ACCEPTED PURSUANT TO PARAGRAPH 1 HEREOF AND IN NO EVENT IS A VISIONEERING PURCHASE ORDER TO BE CONSIDERED AN ACCEPTANCE. ANY BIDS, QUOTES, OR OTHER DOCUMENTS PREVIOUSLY DELIVERED TO VISIONEERING INCORPORATED (HEREINAFTER "BUYER") SHALL HAVE NO EFFECT AND SHALL NOT CONSTITUTE ANY PART OF THIS CONTRACT OF PURCHASE AND SALE UNLESS OTHERWISE PROVIDED HEREIN. BY ACCEPTANCE OF AN ORDER, SELLER AGREES TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS HEREIN.

1. Acceptance of Offer. In no event may an Order be construed as an acceptance by Buyer of any offer to sell, quotation, or proposal. Any reference herein to Seller's offer to sell, quotation, or proposal is solely for the services, parts, or materials contained therein to the extent that such description or specifications do not conflict with the description and specifications contained herein. An Order shall be deemed accepted by the Seller's acknowledging receipt of the order, by Seller's commencement of services or work on the goods, or by Seller's shipment of goods; whichever occurs first. In no event shall any separate acknowledgment and/or acceptance signed by Seller constitute acceptance hereof. Seller acknowledges and agrees that any provision printed or otherwise contained in any acknowledgment, acceptance, invoice, shipper, or other document from Seller inconsistent with or in addition to the terms and conditions herein stated, and/or any alteration to this Order, shall have no force or effect, and Seller acknowledges and agrees that any such additional or different provision in any document or any such alteration to an Order shall not constitute any part of the contract of purchase and sale, but shall be deemed rejected by Buyer without need of further notice of rejection. Acceptance or rejection by Buyer of any additional or different terms or conditions shall not constitute an acceptance of any other additional term or condition unless expressly agreed to in writing by Buyer.

2. Terms Comprising Agreement. The terms and conditions contained herein shall be binding upon Seller. The contract documents collectively comprising the Order include all terms appearing on both sides hereof and all things specifically incorporated by reference or physically attached hereto. Any specifications, drawings, notes, instructions, engineering notices, or technical data referred to in the Order shall be deemed to be incorporated herein by reference as if fully set forth. If any discrepancies or questions arise, the Seller shall refer to Buyer for a decision, instructions and/or interpretation.

The Order supersedes and cancels any written or verbal agreements hereto made and constitutes the entire agreement between the parties. An Order may not be modified except in a writing signed by both parties hereto. Failure of either party to enforce any of its rights hereunder shall not constitute a waiver of such rights or any other rights hereunder.

3. Price. Prices recorded in the Order are not subject to increase unless otherwise agreed to by the parties in writing. No additional amounts shall be chargeable to Buyer because of taxes or excises, presently or hereafter levied on Seller. If the price is not recorded on the face of an Order, the Seller's price shall not be higher than last quoted or last charged to Buyer, unless otherwise agreed in writing. Payment terms are net sixty (60) days from the date of receipt of Seller's invoice unless indicated otherwise on the face of this Order.

4. Retainage. Buyer reserves the right to retain ten percent (10%) of the purchase price to secure performance by Seller of all the terms and conditions contained herein. This retainage shall be paid to Seller only after Buyer has had sufficient time to assure Buyer that the above described goods or materials are fully conforming to this Agreement.

5. Delivery Time. Seller acknowledges that Buyer's production schedules are based upon its agreement that materials or products will be delivered by Seller to Buyer by the date specified on the face of the Order. Therefore, time is of the essence in the performance of the Order. There shall be no delay or change in delivery time without a written amendment to the Order. If deliveries are not made at the time agreed upon, Buyer reserves the right to cancel and/or to purchase all or a portion of the materials elsewhere and hold the Seller accountable for Buyer's damages and expenses as a result thereof. The acceptance of late or defective deliveries shall not be deemed a waiver by Buyer of its right to subsequently cancel all or a part of an Order, or to refuse to accept further deliveries and to hold the Seller liable for breach.

6. Inspection/Acceptance of Materials. Materials delivered (whether paid for or not) are subject to inspection, testing, and approval by Buyer before final acceptance. Signature on a shipper or similar documents acknowledging receipt does not constitute acceptance of materials. Regarding materials that are a component of or are to be incorporated into, or related to any machine, tooling, product, or other materials of Buyer, acceptance of Seller's materials does not occur until final inspection, testing and run-off of the machine.

7. Environmental Health and Safety Performance. Seller acknowledges and accepts full and sole responsibility to maintain an environment, health and safety management system ("EMS") appropriate for its business throughout the performance of this Contract. Buyer expects that Seller's EMS will promote health and safety, environmental stewardship, and pollution prevention by appropriate source reduction strategies. Seller shall convey the requirement of this clause to its suppliers. Seller shall not deliver goods that contain any asbestos mineral fibers.

8. Warranty.

- A. Seller warrants to Buyer, its successors, assigns, Customers, and users of goods sold by Buyer that all goods provided hereunder shall be (i) merchantable; (ii) new; (iii) free from defects in material and workmanship; (iv) with regard to goods designed by Seller, free from defects in design; (v) free from liens or encumbrances on title; and (vi) fit for Buyer's particular purpose. Delivery, inspection, test, acceptance or use of or payment for the goods furnished hereunder shall not affect Seller's obligation under this warranty and all other warranties, express or implied, shall survive delivery, inspection, test, acceptance, payment, and use. When notified of such nonconformity by Buyer, Seller

agrees to correct defects in or replace any goods not conforming to the foregoing warranty promptly and within the time indicated by Buyer in such notice, without expense to Buyer, provided Buyer elects to provide Seller with the opportunity to do so. Deliveries of corrected or replaced goods shall be accompanied by a written notice specifying that such goods are corrections or replacements. Seller shall promptly reimburse Buyer for any direct and/or consequential expenses or damages incurred by Buyer regardless of the nature of such expenses or damages as a result of or relating to Seller's failure to comply with (i)-(vi) above including but not limited to rework, removal and reinstallation costs, withholds, and field service costs. In the event that Seller fails to correct defects in or replace nonconforming goods promptly, Buyer, after reasonable notice to Seller, shall have the right to correct or replace such goods and charge Seller for the costs incurred by Buyer in doing so. Such rights to include, without limitation, Buyer's right to deduct or set off.

- B. If service or technical data are to be provided by Seller hereunder, Seller warrants to Buyer that such services and/or technical data have been performed or prepared in a professional and workmanlike manner and in compliance with Buyer's instructions or other requirements of the Order. Data rejected by Buyer shall be corrected and replaced in its entirety by Seller at its expense even if the specified period for performance has elapsed.

9. Repairs. Seller agrees to make good, at its own expense, any patent or latent defects in its materials or defects/default in its workmanship. Seller waives any statute of limitations defense with respect to latent defects in its materials. If Buyer has received shipment of Seller's materials when the defect or default is discovered, Buyer agrees to allow Seller access to Buyer's premises during reasonable business hours in order to cure such **default** or defect. Where such defect or default, or correction of same, results in additional expense to Buyer, Seller shall bear such expense.

10. Title to Drawings and Specifications. Buyer shall at all times have title to all drawings, samples, models, specifications, and proprietary information furnished by Buyer to Seller and intended for use in connection with an Order; it being understood that such information is being disclosed in confidence upon the condition that it is not to be reproduced or copied or used for furnishing information or equipment to others, or for any other purpose other than the performance of Seller's obligations under the Order. Seller shall use such drawings, proto-types, models, samples, specifications and proprietary information only in connection with the Order, and shall not disclose such drawings, proto-types, samples, specifications and proprietary information to any person, firm, entity or corporation other than Buyer or Seller's employees, subcontractors (with written approval in advance by Buyer), or government inspectors. Upon Buyer's request at the completion of the Order (or sooner if the Order is terminated or canceled in whole or in part) Seller shall promptly return all drawings, samples, specifications, and proprietary information to Buyer.

11. Proprietary Information. Information furnished by Buyer and ideas disclosed to Seller in connection with an Order at any time in any form (including without limitation, orally or in drawings, specifications, operation sheets, material and processing indices, software, tools,

gages, models, data files, reports or goods provided hereunder or otherwise) shall be considered Proprietary whether or not so marked or otherwise indicated (hereinafter "Proprietary Information"), and entrusted to Seller and its officers, employees, agents, contractors, and subcontractors (collectively referred to as "Seller") only for use on behalf of Buyer. Seller shall keep all Proprietary Information in confidence and shall neither use (other than in performance under the Order) nor disclose such Proprietary Information except as authorized in writing by Buyer. Seller shall deliver to Buyer or destroy to Buyer's satisfaction all material (including without limitation documents, software, models, tools and goods which may be defective, partially completed, or completed) embodying Proprietary Information, unless otherwise instructed by Buyer. Any such material disposed of by Seller at any time other than delivery to Buyer shall be altered to such an extent that prevents discovery of any Proprietary Information embodied therein. Proprietary Information shall not include: (i) information which at the time of disclosure is in the public domain; or (ii) after disclosure becomes part of the public domain through no violation of an Order by the receiving party; or (iii) as shown by written records in the possession of the receiving party prior to disclosure by the disclosing party hereunder; or (iv) hereafter becomes available to the receiving party from a third party having no confidential obligation with respect thereto; or (v) has independently developed by the receiving party as shown by written records. Buyer transfers no right, title, license or interest of any kind in and to any Proprietary Information, patents, patents pending, copyrights, trademarks, trade names or intellectual property of any nature unless such transfer is expressly set forth on the face hereof, references this provision and is signed by the President of Visioneering.

12. Confidentiality. Seller shall keep confidential drawings, specifications, technical information and data furnished by Buyer and shall not disclose such information except as required for the efficient performance of this order, Seller shall return all such information and all copies thereof to Buyer upon Buyer's request. Seller shall not make public, or use Buyer's name, trademarks, products, illustrations of products, or in any manner publish any fact relating to an order without prior written approval of either the President or Chief Financial Officer of Visioneering.

13. Invention. Seller hereby agrees to fully disclose and assign and transfer to Buyer, its successors and assigns, Seller's entire right, title and interest to any invention, work, discovery, improvements or design, whether or not patentable or copyrightable, which Seller conceives, creates, develops or makes in connection with Seller's obligations under an Order and within one (1) year thereafter and to promptly describe to Buyer all such items as soon as possible upon creation. Such assignment and transfer shall include the right of Buyer to obtain United States and foreign letters patent, design patents and for copyrights covering such inventions, works, discoveries, improvements or designs. Seller hereby agrees to execute any and all documents and to make any and all oaths necessary or required for the filing and/or prosecution of any applications for such letters patent, design patents, and or copyrights, or any divisions, continuations, continuations in part, renewals or reissues thereof: and to execute, upon the request of Buyer, any and all documents necessary or required to assign such inventions, works, discoveries, improvements or designs to Buyer. All copyrightable works created by Seller pursuant to an Order shall be considered to be works for hire.

14. Right to Inspect on Seller's Premises. The Buyer's Customer, Buyer, or its designated representative, shall have full and free access during reasonable business hours to the shops, factories or other places of business of Seller, and its assignees or subcontractors, in order to inform itself as to the general condition and progress of the work being performed.

15. Modifications. Buyer shall have the right to make, from time to time, changes to delivery schedules. Immediately upon learning of any modifications, Seller shall notify Buyer of any proposed increases or decreases in costs because of such changes. If Buyer and Seller agree that an equitable adjustment in price or other terms is appropriate because of a modification, the adjustment shall be agreed upon in a written amendment to the Order. No price increase will be enforceable unless agreed to in writing by Buyer.

16. Assignment and Subcontracting.

- A. Neither an Order nor any interest therein may be assigned in whole or in part by Seller without the prior written consent of Buyer.
- B. Notwithstanding the foregoing, any amounts due or to become due thereunder may be assigned by Seller; provided that such assignment shall not be binding upon the Buyer unless and until (i) the assignment agreement is received by Buyer and such (ii) Buyer has determined that such assignment agreement is acceptable to Buyer.

17. Indemnification Insurance. Seller shall protect, indemnify, hold harmless and defend Buyer of, from and against any and all damages, claims, losses, expenses (including attorney's fees) and liabilities, including, but not limited to, property damage and bodily injury, including death, arising out of, related to or incident to (i) a breach of this Agreement by Seller, or any of its employees, agents, servants, or subcontractors, and/or their respective employees, agents, or servants or (ii) the performance of an Order or any act or omission of Seller, or any of its employees, agents, servants, or subcontractors, and/or their respective employees, agents, or servants with respect to or arising out of the Order, unless and only to the extent that any such liability was due to the sole negligence of Buyer. Seller and all subcontractors shall protect, indemnify, defend, and hold harmless Buyer from and against any and all loss, cost, damage, expense, claims, or legal actions, whether valid or otherwise, arising out of the bodily injury, sickness, or disease (including death resulting at any time therefrom) which may be sustained or claimed by any person or persons and the damage or destruction of any property, including the loss of use thereof, arising out of or related to a performance of any work in connection with an Order, including any extra work assigned to Seller and its subcontractors in connection therewith, based upon any act or omission, negligent, or otherwise, of Seller, or any of its employees, agents, servants, or subcontractors, and/or their respective employees, agents, or servants. Seller and its subcontractors shall at their own cost and expense, defend any such claims and any suit, action, or proceeding which may be commenced as described above, and Seller and its subcontractors shall pay any and all expense, including but not limited to, costs, attorney fees, and settlement expenses which may be incurred by Buyer in connection with any such claim, suit, action, or proceeding.

Seller and all subcontractors shall, during the continuance of the work in connection with an Order, including any extra work, maintain the following insurance coverage:

- A. Workers' Compensation, Employer's Liability Insurance, and any insurance required by any employee benefit acts or other statutes applicable where the work is to be performed. All such insurance shall be in an amount sufficient, in the opinion of Buyer, to protect Seller and subcontractors from any liability for bodily injury, sickness, or disease (including death resulting at any time there from) or any of their employees, including any liability or damage which may arise by virtue of any statute or any law enforced or which may hereinafter be enacted.
- B. Comprehensive General Liability and Property Damage Insurance in such amounts as may be reasonably required by Buyer, but not less than \$1 million dollars combined single limit, bodily injury, and property damage as protection against all risks of damage to or destruction of property or bodily injury, sickness, or disease, (including death resulting at any time therefrom) of persons wherever located, resulting from any action, omission, or operation in connection with the work performed pursuant to the Order.
- C. Comprehensive Automobile Liability Insurance, including property damage, covering all owned or rented equipment used in connection with the work, in the minimum amounts of \$1 million dollars per person, \$1 million dollars per occurrence for bodily injury (including death resulting at any time therefrom) and \$1 million dollars per occurrence for property damage. Insurance policies required hereunder shall be issued by companies licensed to do business in the State of Michigan and the state or province in which the work will be performed. Such policies shall name Buyer as an additional insured and shall contain endorsements stating they are primary and not excess or contributory with any other valid, applicable, and collectible insurance in force for Buyer. Such policies shall further contain appropriate endorsements extending the coverage to include the liability assumed by contractor under the Order. Buyer may require Seller to furnish evidence of such insurance at Purchaser's option, but Seller's failure to comply with such insurance requirements shall not relieve Seller of its liability and obligations and Buyer's action or inaction shall not act as a waiver of any of Buyer's rights as described herein.
[DISCUSS: PLEASE REVIEW INSURANCE LIMITS]

18. Bankruptcy. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the Seller, the inability of the Seller to meet its debts as they become due, or in the event of the appointment, with or without the Seller's consent, of an assignment for the benefit of creditors or of a receiver, then Buyer shall be entitled, at its sole option, to cancel any unperformed part of an Order without any liability whatsoever.

19. Compliance with Applicable Law. Material covered by an Order shall be produced and sold in accordance with all applicable state and federal statutes and/or regulations including but not limited to the following: (i) Fair Labor standards Act of 1938; (ii) Occupational Safety and Health Act of 1970; (iii) Equal Employment Opportunity, as defined by the Non-Discrimination Provisions of Section 202 of Executive Order Number 11246, as amended by Executive Order Number 11375 and amendments thereto and rules and regulations thereunder, except as exempted by provisions of Section 204 of Executive Order Number 11246 or amendments thereto; Equal Employment Opportunity Clauses of 38 USC 2012, the Vietnam Veterans

Readjustment Assistance Act of 1974, as amended, and the Rehabilitation Act of 1973; (iv) Small Business Act, cited at 15 USC et. seq.; (v) Anti-Kickback Enforcement Act of 1986, (vi) all applicable State and Federal Worker's Compensation Disability statutes, and (vii) any and all applicable Federal Acquisition Regulations (FARS or DFARS) that flow down from a government agency or prime contractor. Buyer may terminate this Order, which will constitute a termination for cause, if Seller fails to provide to Buyer any of the necessary documentation to certify compliance herein, which certifications shall be promptly provided upon Buyer's request.

20. Construction/Venue/Severability. Buyer and Seller agree that an Order shall be governed by and interpreted in accordance with the laws of the State of Michigan, without regard to choice of law provisions. If any provision shall be found by a court or tribunal of competent jurisdiction to be invalid or unenforceable in part or in whole for any reason whatsoever, the validity of the remaining provisions or portions thereof shall not be affected thereby, and this Order shall be enforced consistent with the terms hereof to the greatest extent allowable. One or more waivers of any default or breach committed by Seller shall not operate as a waiver of any future or continuing default or breach. Both parties acknowledge and agree to the jurisdiction and venue for all actions shall be within the state and federal courts located in Oakland County and Detroit, Michigan, respectively, as the exclusive jurisdiction and venue for all actions and proceedings arising out of or related to the Order. The parties each irrevocably waive any objection, including any objection to venue or based on the grounds of forum non conveniens, which either of them may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of an Order. No party shall file an action relating to this Order in any other forum, and if any party breaches this provision, such party shall pay all costs and expenses of the other party, including, without limitation, attorneys fees and court costs, in connection with removing such action to one of the courts set forth above.

21. Termination for Cause - Federal Government Contracts Only

[Paragraphs 20 - 21 apply to Orders to Fulfill Federal Government Contracts or Subcontracts Only]

- A. Buyer may by written notice terminate the whole or any part of the Order in any of the following circumstances: (i) if Seller fails to deliver the goods or fails perform the services required by the Order within the time specified therein, or any extension thereof granted by Buyer in writing; or (ii) if Seller fails to perform any of the other provisions of the Order or so fails to make progress as to endanger performance of the contract in accordance with its terms.
- B. In the event Buyer terminates an Order in whole or in part, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate goods or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for such similar goods or services. Provided however, that Seller shall continue the performance of the Order to the extent not terminated under the provisions of this clause. If this Order is terminated under this clause, Buyer, in addition to any other rights and remedies under this Agreement, at law or in equity, may require Seller to transfer title and deliver to

Buyer in the manner and to the extent directed by Buyer (i) any completed goods, and (ii) any partially completed goods and materials, parts, components, tools, dies, jigs, fixtures, plans, drawings, information, intellectual property, data, know-how, and contract rights (hereinafter called "contract materials") as the Seller has specifically produced or specifically acquired for the performance of such part of the Order as has been terminated; and the Seller shall upon direction of Buyer, protect and preserve property in the possession of Seller in which Buyer has an interest. Subject to the terms of the Order, payment for completed goods delivered or services rendered to and accepted by Buyer shall be at the Order price. Payment for contract materials or services delivered to and accepted by Buyer, and for the protection and preservation of property, shall be in an amount agreed upon by Seller and Buyer. Buyer may withhold from amounts otherwise due Seller for such completed goods, services or contract materials such sums as Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lien holders, which rights and remedies shall be in addition to, and not in lieu of, any other rights and remedies that the Buyer may have under this Agreement, at law or in equity. All such rights and remedies shall be cumulative. The election to pursue one right or remedy shall not preclude the exercise of any other right or remedy.

22. Termination for Convenience - Federal Government Contracts Only

[Paragraphs 20 - 21 apply to Orders to Fulfill Federal Government Contracts or Subcontracts Only]

- A. Buyer, by written notice, may terminate an Order, in whole or in part, for convenience of Buyer, as follows. Buyer shall terminate by delivery to Seller of a notice of termination specifying the extent of termination and the effective date.
- B. After receipt of a notice of termination, and except as directed by Buyer, Seller shall immediately: (i) stop work as directed in the notice; (ii) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Order; and (iii) terminate all subcontracts to the extent they relate to work terminated. After termination, Seller shall submit a final termination settlement to Buyer in the form and in the manner prescribed by Purchaser, and in accordance with applicable portions of subparts 49.1, 49.2 and 49.3 of the Federal Acquisition Regulations (FAR or applicable DFAR provisions).

[Paragraphs 22 - 24 apply to Orders to Fulfill Non-Government Contracts and Subcontracts]

23. Cancellation Buyer may terminate an Order, which will constitute a termination for cause, if any of the following occur; (i) Seller fails to meet delivery schedules without the written agreement of Buyer; (ii) Seller disregards any laws, ordinances or rules, regulations or Orders of a public authority having jurisdiction; (iii) it is demonstrated through Seller's actions or inaction, that it is unlikely that Seller will be able to comply with the terms and the conditions of this Order; (iv) if Seller is adjudged bankrupt or if it makes a general assignment for the benefit of creditors or a receiver is appointed on account of Seller's insolvency; or (v) Seller is in breach of

any provision of the Order; or (vi) Seller fails to provide to Buyer any of the necessary documentation to certify compliance with Paragraph 18 above.

24. Termination for Cause. A termination for cause in accordance with Paragraph 21 above shall be effective immediately upon notice given by Buyer to Seller. Further, in the event of a termination for cause, Seller shall not be entitled to payment of any amounts whatsoever under the terms of the Order, including any amounts for actual costs and expenses incurred as of the date of cancellation, except to the extent that any goods or services provided as of the date of cancellation have been utilized and are accepted by Buyer, in which event Seller shall only be entitled to the lesser of the Order price or the actual costs and expenses it has incurred as of the date of cancellation (less Buyer's cost to cover and/or cost to complete, and any indemnity obligation of Seller to Buyer hereunder). It shall be Seller's burden to establish the amount of its actual costs and expenses incurred, and to provide Buyer with satisfactory supporting documentation for same, before any payments will be made by Buyer hereunder.

25. Default by Seller. If Seller for any reason does not perform under the terms of an Order, Buyer may, at its option, obtain specific performance of or terminate the Order and retain as liquidated damages any deliveries made to Buyer. In the event Seller cancels or repudiates its obligations under an Order at any time prior to complete performance of Seller, Seller shall be liable to Buyer for cancellation charges, including all losses, costs, and damages incurred by Buyer based on economic and manufacturing lot size, plus Buyer's lost profit, cost to cover, and any and all other costs to Buyer, including all material handling, storage, and related charges incurred by Buyer for storage or transportation of any materials following such cancellation. Such rights and remedies shall be in addition to, and not in lieu of, any other rights and remedies that the Buyer may have under this Agreement, at law or in equity. All such rights and remedies shall be cumulative. The election to pursue one right or remedy shall not preclude the exercise of any other right or remedy.

26. Waiver. Buyer's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege hereunder shall not thereafter waive any such terms, conditions, or privileges or any other terms, conditions, or privileges, whether of the same or similar type.

27. Delivery; Freight Charges; Time is of Essence. Unless otherwise stipulated on the face of the Order, goods covered by an Order shall be shipped "F.O.B. Destination" and title to such goods shall pass to Buyer following receipt and acceptance by Buyer on the title passage date (earlier of the manufacturing required date or the use date). Transportation and delivery charges on goods delivered F.O.B. destination must be paid by Seller. No charges for unauthorized transportation will be allowed. Any unauthorized shipment, which will result in excess transportation charges, must be fully paid by Seller. Time is of the essence of an Order, and if delivery of goods or rendering of services is not completed by the time promised, Buyer reserves the right, without liability and in addition to its other rights and remedies to terminate the Order by notice effective when received by Seller as to goods not yet rendered and to purchase substitute goods or services elsewhere and charge Seller with any loss incurred. Substitutions will not be accepted. The goods must be delivered, if necessary, by premium expedited, pre-paid and at Seller's expense to meet schedule deadlines stated herein. Seller's failure to meet delivery

schedules without the prior written consent of Buyer shall be grounds for termination of the Order.

28. Disputes. Either party may litigate any dispute arising or under or relating to an Order before any court of competent jurisdiction consistent with Paragraph 19 hereof. Pending resolution of any such dispute by settlement or by final judgment, the parties shall proceed diligently with performance. Seller's performance shall be in accordance with Buyer's written instruction. All references to dispute procedures in government clauses incorporated by reference shall be deemed to be superseded by this clause.

29. Buyer's Property. All material, including tools, models and prototypes, furnished or specifically paid for by Buyer shall be subject to removal, upon demand by Buyer, from Seller's place of business at any time, without additional cost, shall be used only in filling orders from Buyer, shall be kept separate from other materials or tools, and shall be clearly identified as the property of Buyer. Seller assumes all liability for loss or damage of Buyer's property, with the exception of normal wear and tear, and agrees to supply detailed statements of inventory and stage of completion at monthly intervals or as otherwise agreed upon. Seller hereby grants to Buyer, its successors and assigns, a continuing security interest in all of Buyer's Property and shall execute such financing statements and other such instruments to secure Buyer's security interest in all such property.

30. Waiver of Liens Seller waives and relinquishes all liens and claims, statutory or otherwise, which Seller now has or may hereafter have as a result of labor provided and/or materials furnished by Seller in performance of an Order.

31. Assignment Seller shall not delegate, assign or subcontract any duties or assign any rights or claims under an Order, or for breach thereof, without the prior written consent of Buyer and any such attempted delegation, assignment or subcontract shall be void.

32. Set-Off and Counterclaims All claims for moneys due or to become due from Buyer shall be subject to deduction by Buyer for any set-off or counterclaim arising out of this or any other of Buyer's dealings with the Seller, whether such set-off or counterclaim arose before or after any amounts became due under an Order.

33. Patents Seller shall defend, at Seller's expense. Buyer, its successors and assigns, and users of the products or processes of Buyer, and indemnify and hold them harmless of, from and against any and all costs, liabilities, damages, losses. expenses (including attorney's fees) arising out of claims that the products, materials, or services furnished by the Seller under an Order infringe any United States Patent, copyright or invention rights and/or trade secrets under common law, and with respect to any and all suits, controversies, demands, costs, damages, losses and liabilities (including attorney's fees) arising out of any such claims, whether against Buyer or against those selling or using the goods and services covered by the Order; provided, however, the foregoing shall not apply to any infringement resulting from the Seller's use of a patented invention required to comply with the written instructions of Buyer if such patented invention is not normally utilized by the Seller.

34. Attorney Fees. In the event Buyer should bring an action for enforcement of the terms and conditions of this Order, Seller agrees that Buyer shall be entitled to an award of its reasonable attorney's fees and court costs associated with such enforcement proceedings.

35. Cumulative Remedies. The rights and remedies herein reserved to Buyer shall be cumulative and additional to any other or further rights and remedies provided in law or equity.

36. Quality Control. Seller acknowledges that if an Order is for materials, goods or services used by the aerospace industry, a procurement office of the U.S. Government or a supplier to any U.S. Government purchasing or procurement office, Seller is required to comply with all mandatory FAR and DFAR flow-down provisions. Seller shall provide and maintain a quality assurance system acceptable to Buyer. Seller and any subcontractor or sub-tier supplier to Seller for the Product/Service shall comply with the requirements specified in this document and the Purchase Order Term & Conditions found at suppliers.vistool.com. Buyer reserves the right to conduct surveillance at Seller's facility to determine that Seller's quality system meets the requirements as set forth herein.