

W.R. DAVIS ENGINEERING LTD
PURCHASE ORDER TERMS AND CONDITIONS

1.0 GENERAL REQUIREMENTS

1.1 SCOPE AND ACCEPTANCE OF PURCHASE ORDER – (a) The term “Buyer” shall mean W.R. Davis Engineering Ltd. and the term “Supplier” shall mean the individual, partnership, firm, or company identified on the Purchase Order. Except where prohibited by law, the terms and conditions of this Purchase Order (“PO”) will apply to Buyer’s purchase of hardware, materials, products and services (collectively “Product(s) and Service(s)”) and/or licensing of software (“Software”) described on this PO or an attachment to this PO. Supplier acknowledges that these terms and conditions will be binding on both parties and no signature by either party is required. Supplier waives the application of his/her own terms of sale, licensing and delivery, which shall not become a part of this PO either by Buyer’s silence or acceptance of delivery. In the event a contract number is identified in or on this PO or, if not identified, a current and applicable contract exists, such contract will apply to the purchases and/or licenses under this PO and, with the exception of this Paragraph 1.1, supersede the terms and conditions of this PO. **(b)** This PO will be deemed accepted by Supplier upon the earlier of: (i) expiration of five (5) business days from the date of issuance; or (ii) Supplier's (1) written acceptance of the PO; (2) shipment/delivery of the Product(s) and/or Software; (3) commencement of Services; or (4) submission of the first invoice.

1.2 PRICES AND DISCOUNTS – The prices and discounts will be as provided in this PO, an attachment to this PO or the applicable contract pursuant to paragraph 1.1.

1.3 TAXES – All prices mentioned in this PO are exclusive of value added taxes, use taxes, federal excise taxes, turnover taxes, sales taxes or similar taxes, including any related interest and penalties (hereinafter all referred to as “Taxes”). Any Taxes payable on the Products, Software or Services will be added to the prices and will be for the account of Buyer. Supplier will ensure that invoices are issued to meet the requirements for deduction of input taxes by Buyer. Supplier shall be responsible for all other taxes.

1.4 PAYMENT TERMS - Payment shall be made by Buyer within thirty (30) calendar days from date of receipt.

1.5 ELECTRONIC PROCESSING - Supplier will meet Buyer’s requirements for using electronic means to issue changes, invoices and other payments, and communications.

1.6 CHANGES - Buyer may require changes to this PO at any time. Any price and/or schedule adjustments will be mutually agreed upon. Supplier’s performance of such changes shall not be delayed during any negotiations for adjustments.

1.7 BUSINESS PRINCIPLES - Supplier acknowledges and agrees that Buyer requires that Supplier maintain a high standard of ethical conduct in all its dealings with Buyer.

1.8 BUSINESS CONTINUITY - Supplier shall use commercially reasonable efforts to develop and maintain commercially reasonable business continuity management procedures (“BCM Procedures”) regarding contingency management to alleviate the effects of any business impacting events (“Business Impacting Incidents”) that may have a material and adverse impact on Supplier’s ability to perform its obligations under this PO. The Business Continuity Plan shall contain at a minimum provisions for (a) a risk assessment and business impact analysis, (b) a prevention/mitigation plan, and (c) a resumption of service plan, including a recovery/restoration plan. The preceding will cover, but not be limited to, (i) services documentation storage and protection (including, but not limited, to storage of deliverable technical information, Specifications and other documentation, design documents, tools, process and fixtures), (ii) information systems security and redundancy, and (iii) demonstrating Supplier’s ability to rapidly recover the loss of capability to deliver services and Product.

1.9 ASSIGNMENT –This PO cannot be assigned, except for moneys due, without the prior written consent of Buyer.

1.10 APPLICATION OF LAW – This PO shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada, excluding its conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this PO.

1.11 COMPLIANCE WITH LAWS – (a) Each Party and its respective agents and affiliates shall, and shall cause their respective employees to, comply with all applicable local, national, regional and international laws, ordinances, regulations, codes, standards, directives and international conventions and agreements to the extent that any of the foregoing have the force of law by being directly enforceable by a governmental authority, a court or other proper tribunal, (collectively “Laws”), including, as applicable, but not limited to, anti-bribery and records keeping laws, conventions and/or directives of each country in which such party conducts business as it relates to this Agreement. (b) Each Party and its respective agents and affiliates shall, and each shall cause its respective employees to, comply with all laws, ordinances and/or directives of countries in which the Parties conduct business as they relate to the Universal Declaration of Human Rights, child labor laws, data privacy laws, criminal reporting laws, environmental, health and safety laws or any similar laws, including, but not limited to identifying and filing or purchasing (as applicable) any and all required permits, certificates, licenses, insurance, approvals and

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inspections required in performance of its obligations under POs; (c) Each party shall comply with such regulations, laws and/or directives as may be applicable to, but not limited to, the place(s) of (i) manufacture of the Products, (ii) intended use of the Products, (iii) travel/pass through of the Products, (iv) final destination of the Products, and/or (v) place of delivery of Services.

1.12 SETTLEMENT OF DISPUTES – (a) Dispute Resolution Process - (i) In the event of a dispute, prior to taking any other legal actions, an aggrieved Party shall provide written notice to the other Party of its intention to engage in informal discussions to resolve the dispute pursuant to this Section. For a period of no more than thirty (30) days from the date of such notice, unless otherwise extended by mutual agreement, authorized representatives of both Parties will endeavor, in good faith, to settle the dispute. (ii) In the event the authorized representatives are unable to resolve the dispute within such 30-day period, either Party may provide written notice to the other Party requesting escalation of the dispute to the Parties' next appropriate level of management ("Senior Representatives"). The Parties will use good faith efforts to schedule the meeting of the Senior Representatives within ten (10) days from such notice. The Senior Representatives will meet to discuss the matter and will endeavor, in good faith, to settle the dispute within thirty (30) days from the meeting. (iii) If the Parties' Senior Representatives are not able to resolve the dispute within thirty (30) days from the meeting and unless otherwise agreed upon, the Parties shall submit the dispute to arbitration, as defined below. (iv) All defenses based on passage of time will be suspended pending the conclusion of this dispute resolution process, including, if exercised, the arbitration process defined herein. (b) Arbitration – (i) All disputes arising out of this PO shall be finally settled pursuant to the Arbitration Act (Ontario) by one arbitrator: the arbitrator shall either be agreed by the parties or be appointed. The language of the proceedings shall be English. Each party shall submit a brief not to exceed 10 pages and the arbitration shall not exceed two days in duration. The arbitrators' decision shall follow the plain and natural meaning of the relevant documents, and shall be final and binding. The arbitrators will have no power to award (1) damages inconsistent with this PO, or (2) punitive damages or any other damages not measured by a Party's actual damages, and the parties expressly waive their right to obtain such punitive damages in arbitration or in any other forum. The arbitral award may be entered in any court having jurisdiction. All aspects of the arbitration will be confidential. Each party will promptly pay its share of all arbitration fees and costs. The arbitration proceedings shall take place in Ottawa Ontario. (c) Other Relief – Nothing in this section will be construed to preclude either Party from seeking injunctive relief in a court of competent jurisdiction in order to protect its rights during the dispute resolution process.

1.13 INDEPENDENT CONTRACTOR - NO AGENCY – Each party to this Agreement is an independent contractor and not an agent of the other.

1.14 INSURANCE – Supplier agrees to acquire and maintain insurance on all property on the Supplier's premises owned by the Buyer against loss of damage resulting from fire (including extended coverage) theft, malicious mischief and vandalism. Supplier will provide Buyer certificates or proof of insurance upon request which complies with Buyer's policy.

1.15 MARKS – Supplier will not, without Buyer's prior written consent, make any use of Buyer or its affiliates' trade names, trademarks, logos, or any other Buyer designation or drawing ("Marks").

1.16 ENVIRONMENTAL HEALTH AND SAFETY – Supplier will test and inspect Products prior to shipment, to ensure compliance with all laws and regulations that Buyer is subject to for the use of the Products and use testing and inspection procedures approved in writing by Buyer if any.

1.17 SOFTWARE LICENSE – Supplier hereby grants Buyer a world-wide, non-exclusive, royalty-free, unrestricted, perpetual, transferable license to use, have used, reproduce, have reproduced, distribute, license and sublicense, as applicable, all Software licensed under this PO. Buyer will not reverse compile or disassemble the Software. This Software license shall survive termination of this PO. Buyer shall have the right to distribute any pre-paid Software until such inventory is depleted.

1.18 SUPPLIER PERSONNEL - All persons furnished by Supplier, including employees, agents, or subcontractors, shall be deemed Supplier Personnel and Supplier will be responsible for ensuring payment of all unemployment, social security, social insurance and other payroll taxes, including contributions when required by law. Supplier Personnel will not be covered by, and shall be excluded from participation in, any Buyer employee benefit plan. Supplier will be responsible for Supplier's own labour relations with any labour organization either representing or seeking to represent Supplier Personnel

1.19 SUPPLIER INFORMATION – Supplier will not provide any of its or a third part's technical, business or other information unless Supplier has the right to do so, and the parties will not view any of the foregoing as confidential or proprietary. If Supplier desires to provide to Buyer confidential and /or proprietary information with restrictions, it can only be furnished and accepted under a separately executed non- disclosure agreement between Buyer and Suppliers.

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1.20 BUYER'S INFORMATION - Supplier will view as Buyer's property any idea, data, program, technical, Buyer marks, business or other information owned or controlled by Buyer, and provided to, or acquired by Supplier in connection with this PO (Information). Supplier will keep Information confidential, use it only in performing under this PO and obligate Supplier Personnel to do so. This does not apply to information previously known to Supplier free of obligation, or made public through no fault of Supplier. Following Buyer's directions, Supplier will, at its own expense, destroy or return the original and/or any copy of Information.

1.21 DATA PRIVACY – Supplier agrees that any collection, use and/or storage of personally identifiable information shall be in accordance with the data privacy laws of the applicable country in which such personally identifiable information is to be collected, used, transmitted and/or stored.

1.22 SURVIVAL – All rights and obligations, as well as the general terms, that by their nature would continue beyond the termination, cancellation or expiration of this PO, will survive termination, cancellation or expiration.

1.23 Termination for Convenience – Buyer may at any time terminate or cancel this PO and/or Services, in whole or in part, by written notice to Supplier. PO's may be cancelled prior to shipment/delivery of Products and/or Services without liability to Buyer. Buyer's liability for terminated Services will be limited to the amount due for services performed and accepted up to the date of cancellation.

1.24 Termination for default - Buyer may terminate all or any part of this PO by written notice to Seller if: (i) Seller fails to delivery to Product or perform the Services within the time specified by this P/O or any written extension authorized by Buyer ; (ii) Seller fails to perform any other provision under this P/O or fails to make progress, so as to endanger delivery or service performance of this P/O , and, in either of these two circumstances, does not cure the failure to Buyer's satisfaction within thirty (30) days after receipt of notice from Buyer specifying the failure; or (iii) in the event Seller declares bankruptcy, suspension its business operation, or initiates any reorganization and/or arrangement for the benefit of its creditors.

1.25 Force Majeure - Neither Party shall be liable for any delay or failure in performing its obligations hereunder that is due to circumstances beyond such Party's reasonable control, including, but not limited to, acts of God or the public enemy, actions or decrees of government entities, civil unrest, acts of terrorism, riots, war, fire, unusually severe weather, earthquakes, volcanoes, explosions, strikes by subcontracts or vendors other than those of

seller, or the concerted acts of labour (Force Majeure Event), provided that such circumstance were not reasonable foreseeable by such Party and, by the exercise of reasonable commercial due diligence , could not have been prevented or mitigated by such Party. Upon the occurrence of a Force Majeure Event , the affected Party shall give five (5) calendar days' notice, to the other Party of the nature of any such conditions and the extent of the anticipated delay resulting from such conditions, at which time performance of this P/O to the extent affected by the Force Majeure event shall immediately be suspended without penalty to such affected Party. The Party who has been affected shall take all reasonable actions to resume performance hereunder as soon as such Force Majeure Event is removed or ceases. If the period of non performance exceeds thirty (30) calendar days from receipt of the notice of the Force Majeure event, Company may terminate this P/O immediately upon written Notice to Seller.

1.26 TITLE AND RISK OF LOSS - Title or in the case of software the license shall take effect and risk of loss to Product(s) will vest in Buyer when the Product(s) is delivered according to the shipping terms on this PO. If additional services are to be performed after delivery, Supplier will retain risk of loss until such services have been performed and the Product(s) is accepted by Buyer or customer, as applicable.

1.27 ENTIRE AGREEMENT - This PO is the parties' entire agreement as to the Products, Services and for Software to be provided hereunder and, except as provided in Paragraph 1.0, supersedes all prior agreements, proposals, communications and understandings, whether written, oral or electronic. This PO can only be amended with a writing signed by both parties.

1.28 DISCONTINUED PRODUCT – Supplier will not discontinue Product without Buyer's advance written consent. Buyer's consent will be conditioned on Supplier's not discontinuing the Products for eighteen (18) months from consent, unless the parties agree in writing to a longer period. Supplier will accept all PO's issued during the eighteen (18) months. Supplier will ensure that its suppliers give Supplier similar notice of discontinuance of its products which are used in or supplied as the Product(s).

1.29 COUNTERFEIT PARTS - If suspect counterfeit parts are furnished under this PO or are found in any of the products delivered hereunder, such items will be impounded by Buyer. The Supplier shall promptly replace the suspected counterfeit parts with parts acceptable to the Buyer. The Supplier shall be liable for all costs relating to the removal and replacement of counterfeit parts, including without limitation Buyer's external and internal costs of removing the counterfeit parts, of reinserting replacement parts and of any testing required by the reinstallation of Supplier's goods after

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counterfeit parts have been exchanged. Supplier shall be fully liable for all cost associated with change parts out, material handling and all other related costs.

1.30 TOOLS, JIGS, FIXTURES, DIES, PATTERNS, TEST EQUIPEMENT Heretofore and hereafter furnished by Buyer or purchased by Buyer from Supplier shall become and/or remains the property of the Buyer. These Tools, Jigs, Fixtures, Dies, Patterns, Test Equipment shall be used exclusively for the Buyer's Product and may not be disclosed to anyone else or used by Supplier for anyone other than the Buyer. The Supplier agrees to store and keep in good condition all Tools, Jigs, Fixtures, Dies, Patterns, and Test Equipment up to and including calibration without cost to the Buyer.

1.31 GOVERNMENT OWNED TOOLING - Davis is subject to Integrated Defense System (IDS) Special Tooling requirements under Boeing contracts. We hereby flow this requirement as necessary to our suppliers as follows: A) Seller is required to maintain a special tooling management process that complies with the requirements of D950011059-1, "IDS Seller Special Tooling Requirements." D950-11059-1 is incorporated herein and made part hereof by reference. B) Buyer reserves the right to conduct surveillance at Seller's facility to determine whether Seller's special tooling management process meets the requirement of this clause. A copy of D950-11059-1 can be obtained at the following URL address: http://boeing.com/companyoffices/doingbiz/supplier_portal/index_general.html.

1.32 BUYER FURNISHED MATERIAL - Supplier agrees to exercise reasonable care in the safeguarding and preservation of all Buyer-furnished property and assumes all responsibility for loss, damage or destruction while such property is within Seller's possession or control.

2.0 DELIVERY REQUIREMENTS

2.1 SHIPPING –Supplier agrees: (a) to deliver goods to Buyer as specified on the P/O in accordance with obligations outlined in the Inco terms 2010. (b) suitably pack, mark and ship in accordance with good commercial packing standards and carrier requirements to ensure lowest transportation cost and achieve the safest transportation of the goods. No additional charge shall be made to the Buyer unless otherwise stated herein. If goods are to be exported from the United States, Supplier agrees to 1) ensure that the appropriate destination control statement (i.e. ITAR or EAR) is referenced on Supplier's commercial invoice; and (2) provide Buyer's broker with a copy of applicable US export authorization prior to shipment of goods from the US. (c) all documents must contain Buyers P/O number. 2)

2.2 REJECTIONS – Buyer may reject non conforming shipment(s)/deliveries of Products and/or Software and (i) return the shipment, in whole or in part, for full credit including transportation charges; (ii) accept a conforming part of the shipment/delivery; and/or (iii) replace any rejected part of the

2.3 ON TIME DELIVERY – Supplier will make delivery of a shipment on the scheduled and agreed upon delivery date specified in this PO and/or meet the agreed upon milestone(s) and/or completion date(s) for Services. In addition to Buyer's other rights and remedies under this PO or at law and/or equity.

2.4 MATERIAL SAFETY DATA SHEET (MSDS) – For Chemical products, such as Oil, Grease, Adhesives, Paint, Thinners, etc., the latest revision of the MSDS must accompany the shipment.

2.5 EXPORT CONTROL – Supplier is aware that the items being purchased hereunder may be used in military products. Supplier will advise Buyer of any export controls (other than Canadian) which apply to the items and which would affect the re-export of items from Canada. a) Supplier and Buyer shall comply with the applicable export laws and regulations of Canada, the European Union, the United States of America or any other country applicable to the Buyer, shipment and/or delivery (the "Regulations"). (b) Buyer shall obtain such license or authorization to re-export or import as may be required by such Regulations. Supplier shall provide all reasonable assistance in obtaining such license or authorization. (c) Supplier shall, at its own cost and expense, obtain and comply with such license and authorization as may be required by such Regulations to deliver the Products from Supplier's country to the country of delivery. (d) Supplier shall provide Buyer with all information on the content of the Products which is actually subject to Supplier's country export control regulations and with other export control related information reasonably known to Supplier .shipment/delivery with third party products and/software, with any additional costs reimbursed by Supplier.

2.6 CERTIFICATE OF ORIGIN – Upon the initial shipment of a Good, Supplier shall provide a Certificate of Origin in compliance with the requirements of the customs authorities of the country of receipt showing, at a minimum, the Buyers 'part number and the country of origin of the good which Certificate shall be signed by a person authorized to sign and knowledgeable of the information contained therein. For all shipments, including domestic shipments, Supplier shall provide Buyer promptly of any changes to the information provided on previously supplied Certificates of Origin or NAFTA Certificates of Origin.

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3.0 QUALITY REQUIREMENTS

3.1 QUALITY REQUIREMENTS - Supplier shall be responsible for insuring that Products furnished hereunder have undergone or have been subject to quality assurance and quality control activities and procedures, which may include performance measurements, testing, quality process reviews or inspections. The quality management system shall provide for the early and prompt detection of actual or potential material deficiencies, trends or conditions which could result in unsatisfactory quality, and for timely and effective corrective action.

3.2 MANUFACTURE AND PROCESS - completely to the requirements of the drawing, all specifications referenced therein, and all P/O requirements, including such items as part marking, identification, inspection, stamps, certification, inspection records, etc. All Special processes that are called out on the p/o, engineering drawings or specification must be carried out by OEM approved sources i.e. NADCAP Industry standard. Supplier must notify the Buyer of any changes on product or process, changes of suppliers, changes of manufacturing facilities locations, all changes must be submitted in writing and approved by Buyer.

3.3 RIGHT OF ACCESS – Buyer reserves the right to conduct surveillance of the Supplier’s facility or that of their subcontractors to confirm that the Supplier’s quality system meets Buyer requirements as well as any Quality standards requirements applicable to (ISO/AS) standards latest revision. Entry shall provide for access to quality system documentation and quality records as well as the ability to conduct audits and verify product and processes. Note: Attendees of such surveillance may include the Buyer, Regulatory body, or Customer representative(s).

3.4 FLOW DOWN OF CUSTOMER REQUIREMENTS – Buyers reserves the right to flow down additional requirements to satisfy specific customer and or business requirement that apply. The Supplier must flow the requirements to any sub-contracted supplier.

3.5 RECORD RETENTION REQUIREMENT – (a) quality records generated as the results of performance to a Buyer’s issued P/O / Contract shall be maintained and preserved as legible for a period of ten (10), unless otherwise specified by the Customer, and available for review by Buyer, Customers and/or Regulatory body representatives. (b) additionally, distributors shall assure that manufacturers maintain quality assurance / inspection records and that these records are also available upon request. These records shall include, but are not limited to, receiving, in-process, and final inspection records, Certificates of conformance, raw material Mill certifications, test results, documented non conformances and corrective actions, and Measuring and Test Equipment calibration documentation etc. (c) after this retention period, Buyer must be

notified of the intent to dispose of any records and shall be given the opportunity for further retention at Buyer’s facility.

3.6 CERTIFICATE OF CONFORMANCE – Where requested on the purchase order material/goods supplied on this order must be accompanied by a Certificate of Conformance signed by a responsible member of the supplier’s organization stating the date of manufacture, Buyers P/O number, Part Number, Description, Material Specification, and Mill Certificate Number and must list all special processes applied to the part along with the corresponding specification as applicable.

3.7 FIRST ARTICLE INSPECTIONS (FAI) – The Buyer may require FAI’s to be performed by the Supplier at their sole cost and expense. A successful completion of first article inspection does not relieve the Supplier from performing usual quality conformance inspections of outgoing lots. Unless FAI is to be accomplished in accordance with AS9100 standard latest revision the Supplier’s own format may be used for the FAI report. When FAI per AS9100 standard latest revision is required the Supplier will perform detail FAI using the forms contained in the Appendix of AS9100 standard latest revision. FAI will be performed on new Product representative of the First Production Run. FAI shall not used prototype parts, or parts manufactured using methods different from those intended for the normal production process.

3.8 NOTIFICATION – Supplier must notify Buyer when: (a) Supplier or Supplier’s sub tiers are found to be non compliant to Buyer specifications, (b) Suppliers sub-tier is disapproved by Supplier, (c) Supplier or Supplier’s sub-tier are disapproved by a Regulatory Body or O.E.M, (d) Supplier must notify the Buyer in writing of any non conforming product prior/post to shipment. The Buyer reserves the right to, (i) accept the order (ii) accept a portion of the order, (ii) reject the order.

3.9 Defense Priorities & Allocation System (DPAS) – This order may be DPAS rated for National Defense use. When a DPAS rating is entered on the Buyers P/O this order will take priority over any other work. This requirement must be flowed down to all subcontractors of the Supplier.

4.0 WARRANTY REQUIREMENT

4.1 PRODUCT WARRANTY - Supplier warrants that hardware will be new and free from defects in design, material and workmanship, and will conform to and perform in accordance with the specifications, drawings and samples and documents provided for such hardware for the longer of: (i) fifteen (15) months from the date of delivery to Buyer; (ii) twelve (12) months after acceptance and/or installation by Buyer or Buyer’s customer, as applicable; or

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(iii) such greater period as may be specified in this PO. If hardware contains manufacturers' warranties, Supplier hereby assigns such

Products); (b) refund payments made by Buyer for Covered Products; (c) cancel all invoices for the Product; and, (d) at its

warranties to Buyer and, as applicable, Buyer's customer(s). Software (firmware/operating system software) provided in or with such hardware will have the same warranty period as the hardware. In addition, such Software will be warranted as set forth in Paragraph 13.0.

4.2 SERVICES WARRANTY - Supplier warrants to Buyer and, as applicable, Buyer's customer(s), that Services will be performed in a diligent, workmanlike and professional manner, in compliance with industry standards, and in accordance with any agreed upon statement of work and/or specifications, drawings and documentation related to such Services.

4.3 SOFTWARE WARRANTY – Supplier warrants that Software licensed will be free of material errors, virus-free and malware free at the time of delivery, contains no open source software distributed under GNU Public License (GPL) v.3 or the Lesser GNU Public License (LGPL) v.3 or any open source software that has not been notified in advanced to Buyer and will perform according to the specifications and documentation for such Software upon delivery. Supplier warrants and represents that it is in compliance with any applicable third party licenses related to the Software or Product provided under this PO including, but not limited to, open source software licenses.

4.4 WARRANTY EXTENSION, SURVIVAL AND REMEDIES – (a) These warranties extend to the Products, Software and Services, will continue for the applicable warranty period, and will survive inspection, acceptance and payment. (b) Remedies. Hardware, Software and/or Services not meeting the warranties will be, at Buyer's option, returnable for a refund, or subject to repair, replacement and/or re-performance at no cost to Buyer or, as applicable, Buyer's customer(s). Transportation costs and risk of loss and damage in transit for nonconforming and replaced Products or Software will be borne by Supplier. Repaired and replacement Products and Software will be warranted as new and shall be warranted for the longer of the remaining warranty period of the replaced or repaired Products or Software or ninety (90) days.

4.5 EPIDEMIC FAILURE – Epidemic Failure means that more than 4% of the same type of Products has experienced the same type of failure to conform to the applicable specifications, and such Failure materially affects Product functionality. Supplier warrants that the Products will not experience Epidemic Failure for a period of five (5) years (Epidemic Failure Warranty). If an Epidemic Failure occurs, upon notice from the Buyer, Supplier will (a) at its expense, remove from the field and Supplier's and Buyer's storage locations all units of the Product under Epidemic Failure Warranty (Covered

expense, provide a workaround until a replacement Product is available. In addition, Buyer may cancel all outstanding PO's, blanket orders and releases for the Product without further obligation. Supplier will develop and implement, at no cost to Buyer, a Supplier Corrective action record ("SCAR"), acceptable to Buyer, for any Products that evidence a catastrophic or systemic failure within five (5) years from the delivery date of the Products. Supplier will reimburse Buyer for all reasonable costs incurred by Buyer related to the Epidemic condition and/or CAP implementation and indemnify and hold Buyer harmless against all damages.

5.0 INDEMNIFICATION & LIABILITY

5.1 GENERAL INDEMNITY - Supplier will indemnify, defend and hold harmless Buyer, its affiliates, customers, employees, successors and assigns from any losses, damages, liabilities, fines, penalties, and expenses (including reasonable attorneys' fees) related to any third party claims that arise out of or result from Supplier's acts or omissions related to this PO, and pay any reasonable attorney's fees and all damages so awarded by a court of competent jurisdiction or consented to in a settlement agreement between Supplier, on behalf of Buyer, and such third party.

5.2 LIMITATION OF LIABILITY – (a) Except for amounts due hereunder, Buyer's liability to Supplier for any and all direct damages will not exceed the amounts paid under this PO. (b) In addition, neither party will be liable for any incidental, indirect or consequential damages arising out of the breach of any provisions of this PO. (c) These limitations of liability will not apply to Supplier's obligations under the following Paragraphs: Epidemic Failure, Environmental Health and Safety, General Indemnity, Infringement – Misappropriation Indemnification, Marks, Buyer's Information, Compliance With Laws, Business Principles, or to any liability of either party arising from or related to any personal injury (including death) and property damage or any indemnification obligation.

5.3 INFRINGEMENT-MISAPPROPRIATION-INDEMNIFICATION- Supplier will indemnify, defend and hold harmless Buyer, its affiliates and their customers, officers, directors, and employees (all referred to in this clause as "Buyer") from any losses, damages, liabilities, fines, penalties, and expenses (including reasonable attorneys' fees) that arise out of or result from any and all claims of \ infringement or misappropriation by Supplier of any patent, copyright, trademark or trade secret right, or other intellectual property right, private right, or any other proprietary or personal interest of a third party or related to the existence of this

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PO or performance under or in contemplation of it, except to the extent such infringement or misappropriation is due solely to the infringing and/or misappropriating products, software or services of Buyer.