

UTC STANDARD TERMS AND CONDITIONS OF PURCHASE

SHORT FORM

October 2015 Version

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UTC STANDARD TERMS AND CONDITIONS OF PURCHASE

SHORT FORM

DEFINITIONS:

Agreement: shall mean these Terms and Conditions together with the Order pursuant to which goods or services are being provided and all documents specifically referenced herein or in such Order.

Buyer: shall mean the UTC affiliated company issuing the Order.

Deliverables: shall mean Goods and/or Services depending on the context.

Derived Technical Data: shall mean information that is (i) of non-United States ("U.S.") origin but subject to U.S. jurisdiction and (ii) in any form necessary for the design, development, production, operation, modification or maintenance of Goods or Services, as set forth in applicable ITC Laws. Derived Technical Data can include, but is not limited to drawings, specifications, or operation sheets that contain U.S.-origin data or that were developed using U.S.-origin data.

Goods: shall mean materials or products described in Orders, the purchase of which is governed by the terms of this Agreement.

Order: shall mean a document, electronic or hard copy, issued by Buyer to Seller, in the form of a purchase order or release or similar document, referring to these Terms and Conditions and ordering Deliverables.

Intellectual Property: shall mean all inventions, patents, software, copyrights, mask works, industrial property rights, trademarks, trade secrets, know-how, proprietary information and rights and information of a similar nature. Such information includes, without limitation, designs, processes, drawings, prints, specifications, reports, data, technical information, and instructions.

ITC Laws: shall mean the import, customs, export control, sanctions and U.S. anti-boycott laws, regulations, and orders applicable at the time of the import, export, re-export, transfer, disclosure, or provision of Technical Data, Goods or Services including, without limitation, the (i) Export Administration Regulations ("EAR") administered by the Bureau of Industry and Security, U.S. Department of Commerce, 15 Code of Federal Regulations ("C.F.R.") Parts 730-774; (ii) International Traffic in Arms Regulations (the "ITAR") administered by the Directorate of Defense Trade Controls, U.S. Department of State, 22 C.F.R. Parts 120-130; (iii) Foreign Assets Control Regulations and associated Executive Orders administered by the Office of Foreign Assets Control, U.S. Department of the Treasury, 31 C.F.R. Parts 500-598; (iv) Internal Revenue Code, 26 U.S.C. § 999, enforced by the U.S. Department of Treasury; (v) International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C., § 1701 et. Seq.; (vi) Customs regulations administered by U.S. Customs and Border Protection, 19 United States Code ("U.S.C.") and Title 19 C.F.R.; and (vii) applicable import, customs and export laws and regulations of other countries, except to the extent they are inconsistent with the U.S. laws.

Seller: shall mean the individual, partnership, corporation or other entity contracting to furnish the Deliverables described in the Order, to whom the Order is issued by Buyer.

Services: shall mean services (whether or not ancillary to a sale of Goods) described in Orders, the purchase of which is governed by the terms of this Agreement.

Technical Data: shall mean information that is necessary for the design, development, production, operation, modification or maintenance of Goods or Services as set forth in applicable ITC Laws. "Technical Data" includes Derived Technical Data.

Terms and Conditions: shall mean these Standard Terms and Conditions of Purchase.

1. SCOPE OF THE AGREEMENT

- 1.1. This Agreement must be accepted as indicated in Orders or, if Orders do not provide, in writing by Seller within the time specified on the face of the Order or, if not so specified, within a reasonable time of Seller's receipt hereof.
- 1.2. If for any reason Seller fails to accept this Agreement in writing or as specified in the Order, the furnishing or commencement of any Services called for hereunder, (including preparation for manufacture), the shipment by Seller of any Goods (or lots thereof) ordered hereby, the acceptance of any payment by Seller hereunder, or any other conduct by Seller that recognizes the existence of a contract pertaining to the subject matter hereof, may, at Buyer's election, be treated as an unqualified acceptance by Seller of this Agreement and all the terms and conditions hereof.
- 1.3. Any terms or conditions proposed in Seller's acceptance or in any acknowledgment, invoice, or other form of Seller that add to, vary from, or conflict with the terms herein are hereby rejected. Any such proposed terms shall be void and the terms and conditions of this Agreement shall constitute the complete and exclusive statement of the terms and conditions of the contract between the parties and shall apply to each Deliverable received by Buyer from Seller hereunder, and such terms and conditions may hereafter be modified only by written instrument executed by an authorized representative of Buyer's Purchasing Department and an authorized representative of Seller.
- 1.4. If the Order is issued by Buyer in response to an offer by Seller and if any of the terms herein are additional to or different from any terms of such offer, then the issuance of the Order by Buyer shall constitute an acceptance of such offer subject to the express condition that Seller assents to all such additional and different terms herein and acknowledge that this Agreement constitutes the entire agreement between Buyer and Seller with respect to the subject matter hereof. Seller shall be deemed to have so assented and acknowledged unless Seller notifies Buyer to the contrary in writing within ten (10) days of receipt of the relevant Order.

2. PRICE AND PAYMENT

- 2.1. **Payment terms:** Payment terms will be net ninety (90) days following (i) receipt of conforming Deliverables delivered pursuant to Buyer's delivery requirements,

and (ii) satisfaction of the invoicing requirements (electronic or otherwise) set forth in this Agreement.

- 2.2. Seller warrants that the agreed price for the Deliverables is not less favorable than that currently extended to any other buyer for the same or like Deliverables in similar quantities.
- 2.3. **Cash Discount:** The cash discount period, if any, shall be computed as commencing with receipt by Buyer of invoice or of Deliverables, whichever is later.
- 2.4. **Invoices:** All invoices must contain the following information: Purchase order number, item number, description of items, quantities, unit prices, and taxes. Payments of invoices shall not constitute acceptance of Deliverables and shall be subject to adjustment for shortages, defects and other failure of Seller to meet the requirements of this Agreement. Buyer or any of its affiliated companies may set off any amount owed by Seller or any of its affiliated companies to Buyer or any of its affiliated companies against any amount owed by Buyer hereunder.
- 2.5. Buyer shall not be obligated to pay for any Deliverable if the invoice for such Deliverable is received more than twelve (12) months after the receipt of the Deliverable.

3. TAXES

- 3.1. Unless otherwise stated in the Agreement, all payments, prices, fixed or otherwise, sums, payments, fees and monetary amounts mentioned in this agreement are exclusive of any and all sales and use taxes, value added taxes, goods and services taxes, taxes levied upon importation, such as customs duties, excises, or any other taxes ("Taxes") levied in regard of any of the transactions covered by this Agreement.
- 3.2. When invoicing, Seller shall (a) include amounts of Taxes, or specific fees Seller is required by applicable law to add-on to the sales price and collect from Buyer or otherwise is legally due from Buyer and (b) separately state each of the Taxes.
- 3.3. Seller is solely responsible for the fulfillments of Seller's obligations under law or statute in respect to collecting and remitting Taxes collected from Buyer under this Agreement to the proper tax authority. Any penalties, fees or interest charges imposed by a tax authority or other authority as the result of non-payment of Taxes collected by Seller from Buyer will be borne by Seller. Seller shall also pay any Taxes arising out of its willful misconduct or negligence for which Buyer becomes liable.
- 3.4. Seller shall not collect Taxes on the supply of goods and services under this agreement in case and under circumstances where (a) the transaction is not subject to Taxes, (b) the liability for payment of Taxes is shifted or reversed by law or statute or otherwise is the legal responsibility of the Buyer or (c) Buyer has been authorized to pay Taxes directly to the appropriate Tax authority.

- 3.5. Seller shall deliver electronically by way of the Internet all software of any type, including manuals. Seller shall separately itemize the prices of electronically delivered software, licenses, fees and Services on invoices. Invoices shall clearly indicate the manner of software delivery by inclusion of the phrase, "software delivered electronically to the customer via the internet." License locations should clearly be stipulated in the Agreement to allow for proper allocation of any Taxes owed.
- 3.6. Seller warrants that invoices issued in relation to goods and services supplied under this agreement are in compliance with any and all requirements as to content and format imposed by tax and/or civil statute that has jurisdiction over the transaction or transactions performed by the Seller.
- 3.7. Buyer shall withhold any portion of the monies from the amount payable under the invoices issued to it to account for any withholding for taxes that is required to be made by the Buyer pursuant to the tax laws in the relevant tax jurisdiction. Any such amount required to be withheld by the Buyer on behalf of the Seller shall be deemed a payment on account of the relevant invoices issued to the Buyer. Buyer shall provide Seller with receipts supporting any taxes withheld.
- 3.8. Buyer is not responsible for any tax based on Seller's income, payroll or gross receipts.
- 3.9. Buyer shall report and remit any Taxes relating to property for which Buyer retains title pursuant to the Agreement, accruing prior to and after the commencement of the Agreement. Where Seller possesses Buyer-owned property, Seller shall notify Buyer of any disposal or movement of such property. Seller shall report and remit any property-related Taxes relating to property for which Seller retains title pursuant to the Agreement, accruing prior to and after the commencement of the Agreement.
- 3.10. Seller shall, upon receipt from any Tax Authority of any levy, notice, assessment, or withholding of any Taxes for which Buyer may be obligated, notify Buyer in writing directed to: Manager, Tax Compliance, United Technologies Corporation, 8 Farm Springs Road M/S 10FS-1, Farmington, CT 06032.
- 3.11. Seller shall cooperate in the equitable resolution of disputes pertaining to any Taxes arising from this Agreement. If Buyer may directly contest any Taxes in its own name, then it may do so and, to the extent permitted by law, withhold payment during contest pendency. If Buyer is not so permitted, Seller shall in good faith, as requested by Buyer, contest the Taxes. Seller shall supply Buyer with information and documents as Buyer may reasonably request for Buyer to control or participate in any proceeding to the extent permitted herein.
- 3.12. If Seller receives a refund of any Taxes attributable to Buyer; Seller shall pay such amount to Buyer within thirty (30) days of receipt. Seller shall indemnify Buyer against any and all losses, costs, and expenses (including reasonable attorneys' fees) which result from Seller's violation of its obligations under this section.

4. DELIVERY

- 4.1. Seller shall furnish the items called for by this Agreement in accordance with the delivery terms stated on the Order and if delivery dates are not stated, Seller shall offer Buyer its best delivery dates, subject to written acceptance by Buyer ("Delivery Dates"). Time is of the essence in Seller's performance of the Order, and Seller shall deliver Goods and perform Services by the Delivery Dates. Buyer may from time-to-time adjust its delivery schedules, and unless otherwise agreed in writing, such changes in schedule shall not affect the prices of the Deliverables ordered. Buyer may defer payment or return at Seller's expense, any Deliverables delivered in advance of the scheduled Delivery Date or in excess of the quantity specified for such items.
- 4.2. Unless otherwise expressly set forth in the Order, the delivery terms for Goods shall be: DDP Buyer's facility (Incoterms 2010) provided that Seller shall be responsible for unloading of the Goods in accordance with Buyer's instructions and the risk of unloading will be that of Seller. As consistent with this delivery term, standard delivery instructions of the relevant procurement department apply and may be obtained through the relevant Buyer procurement representative. Title shall pass to Buyer on delivery of Goods as provided in this section. If delivery is required to be made to a third party (drop shipment), title and risk of loss shall pass to Buyer when delivered at the consignee's facility.
- 4.3. **Notice Of Delay:** Whenever an actual or potential reason for delay (including but not limited to labor disputes), delays or threatens to delay the timely performance of the Order, Seller agrees to immediately notify Buyer in writing of all relevant information and, subject to the force majeure provision set forth herein, to make and pay for all necessary changes to fulfill its obligations under the Order and mitigate the potential impact of any such delay. Buyer has the right without incurring any liability to cancel any Deliverables affected by the delay in performance.
- 4.4. **Cessation of Production:** Seller shall give Buyer at least one hundred eighty (180) days prior written notice of the permanent discontinuance of production of items covered by Orders, provided however that compliance with this provision shall in no way relieve the Seller from its obligations under the Order.
- 4.5. **Packing:** Seller shall not charge separately for packaging, packing or boxing, unless Buyer has agreed to such charges in writing. Seller shall not combine in the same container, material that is to be delivered to different receiving locations. All wood products used in packaging shall be ISPM 15 compliant.
- 4.6. **Marking:** Unless otherwise agreed in writing, exterior containers shall be marked with the following: (1) Address of Buyer site and Seller; (2) Order number; (3) Part number; (4) Special markings called for on the Order; (5) Quantity; and (6) (where applicable) Vendor Code or other vendor identification number.
- 4.7. **Bills of Lading:** Bills of Lading shall reference the Order and Buyer's receiving address and purchase point of contact. When Buyer will be the importer of record, Seller will follow the instructions of Buyer's designated representative

regarding completion of documentation used in the importation process and proper declaration of value. The original copy of the bill of lading with Seller's invoice shall be mailed to the location specified by Buyer's procurement contact, or if no location is specified by Buyer, to Buyer's applicable Accounts Payable Department or Accounts Payable service provider.

- 4.8. **Packing Slip:** Seller shall include an itemized packing slip with all shipments that will adequately identify the Goods shipped, including Buyer part number.
- 4.9. **Shipping and Approved Carriers:** On Orders where Buyer either pays for or reimburses Seller directly for shipping costs, Goods shall be shipped in accordance with routing instructions furnished by Buyer. If such instructions are not received, Goods shall be shipped via least expensive method sufficient to meet delivery requirements, but always through Buyer approved carriers.

5. PRIME OR CUSTOMER CONTRACT REQUIREMENTS

- 5.1. When Seller's work hereunder will form a part of the work, whether Goods or Services, under a contract that Buyer has with another or others, Seller agrees, by its acceptance hereof, to be bound to Buyer in the same manner and to the same extent that Buyer is bound to its customer. Seller further agrees that Buyer's contract with its customer is incorporated herein and forms an integral part of this Agreement and that it has examined the drawings, specifications, terms and conditions of such contract and that it will be bound by such drawings, specifications, terms and conditions. Access to all such documentation will be provided to Seller upon request.
- 5.2. For Orders issued under any government or commercial sales contract with the U.S. Government or subcontracts at any tier under U.S. Government contracts, the provisions of the version of "**U.S. Government Provisions and Clauses for Orders Under U.S. Government Contracts**" in effect on the date of the particular Order shall apply. These provisions are made available on the Internet at the following URL and will be provided to Seller in hard copy upon written request.

<http://www.utc.com/Suppliers/Pages/Terms-and-Conditions.aspx>

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

6. INSPECTION/ACCEPTANCE/REJECTION

- 6.1. All Deliverables being provided to Buyer's specifications covered by the Order may be inspected and tested by Buyer or its designee, at all reasonable times and places, including during manufacture. Seller shall provide, without additional charge, all reasonable facilities and assistance for such inspections and tests.
- 6.2. All inspection records relating to Deliverables covered by the Order and being manufactured to Buyer's specifications and/or drawings shall be available to

Buyer during the performance of the Order and for such longer periods as specified by Buyer.

- 6.3. Deliverables furnished hereunder shall have zero defects, and Seller has the obligation to properly inspect such items prior to delivery to Buyer. If any Deliverables covered by the Order are defective or otherwise not in conformity with the requirements of the Order, Buyer may, (i) rescind the Order as to such Deliverables, and rescind the entire Agreement if such defect or non-conformity materially affects Buyer; (ii) accept such Deliverables at an equitable reduction in price; or (iii) reject such Deliverables and require the delivery of replacements. Deliveries of replacements shall be accompanied by a written notice specifying that such Deliverables are replacements. If Seller fails to deliver required replacements promptly, Buyer may (i) replace, obtain or correct such Deliverables and charge Seller the cost occasioned Buyer thereby, and/or (ii) terminate the Order for cause.
- 6.4. Rejected Deliverables may be returned to Seller at Seller's cost.

7. CHANGE ORDERS

Buyer shall have the right at any time prior to the Delivery Date of Deliverables to make changes in drawings, designs, specifications, packaging, place of delivery, nature and duration of Services, and method of transportation, or require additional or diminished work. If any such changes cause an increase or decrease in the cost or the time required for the performance or otherwise affect any other provision of the Order, an equitable adjustment shall be made and the Order shall be modified in writing accordingly. Seller's claims for adjustment under this section shall be deemed waived unless asserted in writing (including the amount of the claim) and delivered to Buyer within thirty (30) days from the date Seller receives the change order.

8. WARRANTIES

- 8.1. Seller expressly covenants and warrants that all Deliverables shall conform to the specifications, drawings, samples or other description upon which the Order is based, shall be suitable for the purpose intended, merchantable, free from defects in material and workmanship, and free from liens, or encumbrances of title, and that Deliverables of Seller's design will be free from defect in design. Inspection, test, acceptance or use of Deliverables furnished hereunder shall not affect Seller's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. This warranty shall run to Buyer, its successors, assigns, customers, and the users of the Deliverables. Seller agrees to replace or correct defects of any Deliverables not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity by Buyer. In the event of failure by Seller to correct defects in or replace nonconforming Deliverables promptly, Buyer, after reasonable notice to Seller, may make such correction or replace such Deliverables and charge Seller for the cost incurred by Buyer thereby. Seller further warrants that all work will be performed in a professional manner in accordance with the highest industry standards.
- 8.2. **Permits and Licenses:** Except for permits and/or licenses required by statute or regulation to be obtained by Buyer, Seller agrees to obtain and maintain - at its

own expense - all permits, licenses and other forms of documentation required by Seller in order to comply with all existing national, state, provincial or local laws, ordinances, and regulations, or of other governmental agency, which may be applicable to Seller's performance of work hereunder. Buyer reserves the right to review and approve all applications, permits, and licenses prior to the commencement of any work hereunder.

- 8.3. **Product Support Obligation:** Seller shall maintain, at its expense, the ability to, and shall, provide product support for the Deliverables for ten (10) years after the last Order is placed by Buyer under this Agreement.

9. ENVIRONMENTAL, HEALTH & SAFETY

- 9.1. **Test Reports:** Any Seller test reports or other test results related to the Deliverables shall be provided to Buyer as set forth in the terms of the Order, or if not specified in the Order terms, upon Buyer's request.
- 9.2. **Environmental and Safety:** Seller agrees to comply with Buyer's environmental, health and safety standards during Seller's performance hereunder and when at Buyer's jobsites, including without limitation, Buyer's jobsite safety rules; and if Seller is unable or unwilling to comply with such requirements, the Order can be withdrawn without further recourse by Seller. Specifically, and without limitation, Seller agrees to: (1) Comply with the applicable national, state, provincial or local environmental, occupational health and/or safety legislation or regulations. (2) Supply to employees and require that all employees wear specified safety equipment, including but not limited to eye protection and foot protection. (3) Adhere to all Buyer's safety requirements and instructions as indicated by Buyer or Buyer's representatives including without limitation, if Seller will be performing Services within Buyer's facilities, the compliance requirements and restrictions applicable to Services performed within Buyer's facilities. (4) Immediately prior to commencement of any work or service, contact a responsible Buyer representative. (5) Submit the Workers' Compensation Board Firm Number to Buyer's safety office. (6) Require its suppliers to agree to the requirements of this section and the section of this Agreement entitled "Compliance with Laws".
- 9.3. **Use Of Hazardous Substances:** Seller agrees to provide, upon and as requested by Buyer to satisfy any applicable regulatory or customer requirements restricting the use of any hazardous substances, all reasonably necessary documentation to verify the material composition, on a substance by substance basis including quantity used of each substance, of any Goods ordered by Buyer and/or of any process used to make, assemble, use, maintain or repair any Goods ordered by Buyer. Separately and/or alternatively, Seller agrees to provide, upon and as requested by Buyer to satisfy any applicable regulatory or customer requirements restricting the use of any hazardous substances, all reasonably necessary documentation to verify that any Goods ordered by Buyer and/or any process used to make, assemble, use, maintain or repair any Goods ordered by Buyer, do not contain particular hazardous substances specified by Buyer.

10. SECURITY

This provision applies whenever Seller's employees, agents, representatives, subcontractors, subcontractor employees, or any other person used by Seller (collectively, "Seller Personnel") will be granted access to (1) Buyer's facilities or the facilities of Buyer's customers ("Facilities") and/or (2) Buyer's or Buyer's customer's computer-based information systems, computer systems, databases and/or files ("Systems").

Seller is responsible for ensuring that any Seller Personnel requiring access to Facilities and/or Systems meets the following minimum requirements designed to assess honesty and trustworthiness:

10.1. Access to Facilities and/or Systems in the United States. In advance of Buyer granting Seller Personnel access to Facilities and/or Systems:

10.1.a. Seller must verify the identity and authorization to work status of Seller Personnel through the form I-9 and E-Verify processes and provide written certification in the form provided by Buyer that the requirements of this provision have been satisfied;

10.1.b. Seller shall perform a background screen on Seller Personnel using FirstAdvantage (or such other company approved by Buyer) and provide written certification in the form provided by Buyer that (1) Seller Personnel do not have any criminal convictions, as reported in the result of a background screen, or (2) if they do have criminal convictions, Seller Personnel were hired only after an individualized assessment was conducted in accordance with all applicable laws and taking into consideration the nature and severity of the underlying offenses, the nature and scope of the access to be granted, the specific jobs at issue, and the length of time since the convictions; and

10.2. Access to Facilities and/or Systems outside the United States. In advance of Buyer granting Seller Personnel access to Facilities and/or Systems:

10.2.a. Seller must verify the identity of Seller Personnel. Additionally, Seller must verify that Seller Personnel has requisite work authorization to perform services requiring access to specific foreign Facilities and/or Systems contemplated by this Agreement and provide written certification in the form provided by Buyer that the requirements of this provision have been satisfied; and

10.2.b. Seller shall perform a background screen on Seller Personnel using FirstAdvantage (or such other company approved by Buyer). As allowable by local/applicable laws, Seller shall provide written certification in the form provided by Buyer that (i) Seller Personnel do not have any criminal convictions, as reported in the result of a background screen, or (ii) if they do have convictions, Seller Personnel were hired only after an individualized assessment was conducted and taking into consideration the nature and severity of the underlying

offenses, the specific jobs at issue, and the length of time since the convictions; and

- 10.3. Buyer and the UTC Participating Sites reserve the right to impose additional requirements before granting Seller Personnel access to Facilities and/or Systems (e.g., drug screening, credit check, security clearance, adopting a technology control plan, signing an intellectual property agreement). If additional requirements are imposed, Seller shall provide Buyer with written certification in the form provided by Buyer that the requirements have been met. Seller shall retain documents verifying that the additional requirements have been satisfied. Buyer or the UTC Participating Sites may further direct Seller to use a designated service provider to verify authorization to work, U.S. person and/or citizenship status, along with additional attributes regarding citizenship and the Seller, at Seller's sole cost and expense.
- 10.4. Should Seller desire to assign Seller Personnel that do not fully meet the requirements herein, Seller may make a request for an exception in writing to Buyer, detailing the specific circumstances. Buyer may, on a case-by-case basis and in its sole discretion, either grant or deny any such requests.
- 10.5. Failure to provide the certifications required herein may result in a refusal to grant Seller Personnel access to Facilities and/or Systems, and Seller shall be responsible for promptly providing a replacement.
- 10.6. Seller shall immediately update Buyer if, at any time during performance of this Agreement, any information related to Seller Personnel is altered or rendered inaccurate for any reason. Inability of Seller to comply with the requirements of this provision shall not excuse Seller from performing the Agreement and shall not constitute an excusable delay.
- 10.7. Buyer may (i) audit the methodology, process, and results relied upon by Seller to confirm that Seller Personnel meet the requirements herein, and (ii) deny access to Facilities and/or Systems where Buyer reasonably believes that Seller Personnel do not meet the requirements of this Section 10.
- 10.8. Seller represents and warrants that if individuals and/or entities other than Seller Personnel are engaged by it in the performance of this Agreement, Seller shall require these individuals and/or entities to satisfy requirements no less than those stipulated herein.
- 10.9. Seller acknowledges and agrees that any breach of this Section 10 may result in a violation of U.S. law for which Buyer, Seller, and/or Seller Personnel may be liable.

11. INTELLECTUAL PROPERTY

- 11.1. "Background Intellectual Property" shall mean all Intellectual Property other than Foreground Intellectual Property.

- 11.2. "Foreground Intellectual Property" shall mean all Intellectual Property and tangible work product conceived, created, acquired, or first reduced to practice in connection with the Order.
- 11.3. Each party retains its existing rights in Background Intellectual Property.
- 11.4. Buyer shall own all Foreground Intellectual Property. Seller shall disclose to Buyer all Foreground Intellectual Property. If not expressly required to be delivered in the Order, Seller shall deliver to Buyer all Foreground Intellectual Property upon written request from Buyer. Seller hereby irrevocably assigns and promises to assign to Buyer all right, title and interest to all Foreground Intellectual Property. Seller agrees to do all things reasonably necessary to enable Buyer to secure and perfect Buyer's Foreground Intellectual Property rights, including, without limitation, executing specific assignments of title in Foreground Intellectual Property by Seller to Buyer and cooperating with Buyer at Buyer's expense to defend and enforce Buyer's rights in any such Foreground Intellectual Property. All Foreground Intellectual Property assigned to Buyer pursuant to the Order shall be considered Buyer's Proprietary Information (defined hereinafter). Seller agrees that, for any works of authorship created by Seller or any employees or any others used by Seller in the course of the Order, those works that come under one of the categories of "Works Made for Hire" in 17 U.S.C. §101 shall be considered "Works Made for Hire". For any works of authorship that do not come under such categories, Seller, warranting that it has the right to do so, hereby assigns and promises to assign all right, title, and interest to any copyright in such works to Buyer and will execute, or cause to be executed at Buyer's expense, any documents required to establish Buyer's ownership of such copyright.
- 11.5. Seller represents and warrants that Seller has sufficient rights in all Goods, Services, and Intellectual Property and other items that Seller uses or transfers to Buyer in connection with the Order to allow Seller to lawfully comply with the Order.
- 11.6. Seller hereby grants and promises to grant to Buyer and Buyer's Affiliates a worldwide, non-exclusive, perpetual, fully-paid, irrevocable, transferable license to Background Intellectual Property (i) to use, sell, offer for sale, import, export, copy, adapt, embed, modify, make derivative works, make and have made Goods and Services, and (ii) to enable Buyer to practice the Foreground Intellectual Property.
- 11.7. Seller hereby irrevocably waives and promises to waive all moral rights to the extent permissible by law, all rights of privacy and publicity, and the like, in all Goods provided to Buyer and in all activities in connection with the Order.
- 11.8. Seller represents and warrants that Seller shall not provide, in the performance of the Order, any software, including without limitation source code, compiled code, embedded software, firmware, free software, open source software, freeware, general public license-governed software, or any electronic hardware including without limitation free hardware designs, or open source hardware designs, in any form that is subject to any obligations or conditions that may provide a legal right to any third party to access such software and/or electronic hardware, or

that could otherwise impose any limitation or condition on Buyer's use, reproduction, modification, distribution or conveyance of such software or electronic hardware.

- 11.9. Except as expressly authorized herein, nothing in the Order shall be construed as Buyer granting Seller a license in or any right to use any of Buyer's Intellectual Property other than in the performance of work under the Order.

12. BUYER'S PROPERTY

All tools, equipment dies, gauges, models, drawings or other materials furnished by Buyer to Seller or made by Seller for the purpose of this Agreement or paid for by Buyer and all replacements thereof and materials attached thereto, shall be and remain the property of Buyer. All Buyer's property and, whenever applicable, each individual item thereof, will be plainly marked and otherwise adequately identified by Seller as being Buyer's property, will at Seller's expense be safely stored (separate and apart from Seller's property whenever practicable) and maintained and will be kept free of all liens, claims, encumbrances and interests of third parties. Seller shall be responsible for loss of and damage to Buyer's property. Seller will not substitute any property for Buyer's property, will not deliver or make available to any third party any of Buyer's property or any property or goods developed, manufactured or created with the aid of any of Buyer's property and will not use any of Buyer's property or any property or goods manufactured, developed or created with the aid of Buyer's property, except in fulfilling the Orders of Buyer. Upon completion by Seller of the Order, or upon the written request of Buyer at any time, Seller will prepare all Buyer's property for shipment and deliver such property to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted. Buyer shall have the right, at all reasonable times, upon prior notice to enter Seller's premises to inspect any and all Buyer's property and any property or goods manufactured, developed or created with the aid of any Buyer's property. Should Seller be unable to deliver Goods pursuant to this Agreement, Buyer, by written notice, may vest in itself title to finished parts, raw materials or work in process associated with this Agreement, and Seller shall deliver all such material and other Buyer property to such location or locations outside its facility as may be designated by Buyer.

13. PROPRIETARY INFORMATION

- 13.1. "Proprietary Information" shall mean all information, knowledge or data (including without limitation financial, business, and product strategy information; product specifications; product designs; procedures; studies; tests; and reports) in written, electronic, tangible, oral, visual or other form, (i) disclosed by, or obtained from, Buyer or (ii) conceived, created, acquired, or first reduced to practice in connection with the Order. If Buyer furnishes sample products, equipment, or other objects or material to Seller, the items so received shall be used and the information obtained from said items shall be treated as if they were Proprietary Information disclosed in connection with the Order.
- 13.2. Unless the Seller has received the Buyer's express written consent to the contrary, Seller shall (i) use the Proprietary Information solely for the purposes of the Order, and not for any other purpose (including, without limitation, designing, manufacturing, selling, servicing or repairing equipment for entities other than Buyer; providing services to entities other than Buyer; or obtaining any government or third party approvals to do any of the foregoing); (ii) safeguard the

Proprietary Information to prevent its disclosure to or use by third parties; (iii) not disclose the Proprietary Information to any third party; and (iv) not reverse engineer, disassemble, or decompile the Proprietary Information.

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

This document contains the property of United Technologies Corporation and/or a United Technologies Corporation affiliate. You may not possess, use, copy or disclose this document or any information in it for any purpose, including without limitation to design, manufacture, or repair parts, or obtain FAA, Transport Canada Civil Aviation (TCCA) or other

government approval to do so, without express written permission. Neither receipt, from any source, nor possession of this document, constitutes such permission. Possession, use, copying or disclosure by anyone without express written permission of United Technologies Corporation and/or the United Technologies affiliate issuing the Order is not authorized and may result in criminal and/or civil liability.

- 13.10. Notwithstanding any proprietary or confidential labels or markings, all information of Seller disclosed to Buyer relating to the Order will be deemed non-confidential and the content of the Order may be disclosed by Buyer to any of Buyer's Affiliates. Moreover, Buyer may disclose all Seller information, in accordance with applicable governmental regulations, to any department or agency of the U.S. Government, including, without limitation, for the purpose of obtaining necessary government approvals.
- 13.11. Seller agrees that it will not accept from any third party, or use, any information that appears to be similar to Proprietary Information without first obtaining Buyer's express written consent, except that Seller may receive solicitations or purchase orders issued by a partner or higher-tier supplier of Buyer that expressly reference a Buyer Purchase Order and contain obligations no less stringent than this Section. Seller shall promptly notify Buyer if Proprietary Information is offered to Seller by a third party or of the suspected possession of Proprietary Information by a third party.
- 13.12. Seller agrees to notify Buyer in writing and to obtain Buyer's written consent, not to be unreasonably withheld, prior to manufacturing any parts for another entity that have the same form, fit and function as any parts Seller manufactures for Buyer using Proprietary Information. Seller's notification shall describe the parts to be manufactured for the other entity, identify the corresponding parts Seller manufactures for Buyer and provide Buyer with sufficient information to demonstrate that Seller will manufacture such parts without reference to or use of Proprietary Information. If Seller manufactures or sells any such parts without obtaining Buyer's written consent (or applies for or assists another entity in obtaining FAA or other government approval for such parts), then it shall be considered a breach of the Order and Buyer shall be entitled to injunctive relief and such other remedies as a court may order.
- 13.13. Seller shall not make accessible or sell completed or partially completed or defective Goods manufactured using or containing Proprietary Information to any unauthorized third parties. Goods not provided to Buyer shall be disposed of in a manner that prevents disclosure of Proprietary Information (including by reverse engineering).
- 13.14. For proprietary information exchanged in connection with the Order, the terms of this Section 14 shall supersede any provisions regarding the protection of proprietary information in any other agreement between the Parties.

14. GENERAL INDEMNIFICATION

Seller shall indemnify, protect, defend and save the Buyer, its officers, directors and Buyer's affiliates and their officers and directors harmless from all suits, claims, losses, damages,

injuries, costs or expenses (including attorneys' fees) arising out of, or caused by, Seller's performance hereof or any defects in the Deliverables.

15. INFRINGEMENT INDEMNIFICATION

- 15.1. Seller shall indemnify and hold harmless Buyer, Buyer's Customers, Affiliates, and subsidiaries, their agents, directors, officers, and employees, and each subsequent purchaser or user, from any losses, costs, damages, and liabilities, including, without limitation, any attorney's fees, court costs and fines, arising from any potential or actual claim, suit, injunction, action, proceeding, or investigation alleging infringement or violation of any Intellectual Property rights or license, related to the manufacture, use, sale, offer for sale, import or other exploitation of any Goods or Services delivered or performed in connection with the Order ("Claim").
- 15.2. Seller shall not be liable for any Claim based on Seller's compliance with any Specification created by the Buyer, unless: (i) Seller could have complied with Buyer's Specification using a solution that was non-infringing; (ii) the relevant portion of the Specification was derived from, recommended by, or provided by, Seller; or (iii) Seller knew or should have known of a Claim or potential Claim and did not promptly notify Buyer in writing.
- 15.3. Seller shall, upon written notice from Buyer of a Claim, promptly assume and diligently conduct the entire defense of a Claim at its own expense. Insofar as the Buyer's interests are affected, the Buyer shall have the right, at its own expense and without releasing any obligation of the Seller, to participate and intervene in a Claim. Buyer shall have the right to reasonably reject counsel selected by Seller. Seller shall not enter into any settlement without Buyer's prior written consent, which shall not be unreasonably withheld.
- 15.4. Buyer may supersede Seller in the defense of any Claim, and assume and conduct the defense at Buyer's sole discretion. In such an event, Seller shall be released from any obligation to pay for attorneys' fees and court costs, but not settlement or damages, and any such release is expressly conditioned on Seller's complete cooperation with Buyer in Buyer's defense of such Claim at Buyer's expense. Buyer shall not enter into any settlement without Seller's prior written consent, which shall not be unreasonably withheld.
- 15.5. If the manufacture, use, sale, offer for sale, import, export or other exploitation of any of the Goods or Services is enjoined by a court, if delivery is precluded by a government entity, or should Seller refuse to provide or supply any Goods or Services to avoid a potential third party claim, Seller shall avoid any disruption to Buyer and shall (i) secure for Buyer the right to provide, use or sell such Goods or Services; (ii) modify or replace such Goods or Services with equivalent non-infringing Goods or Services; or (iii) provide such other solution acceptable to Buyer. Seller shall reimburse Buyer for Buyer's costs incurred in obtaining all internal, external and Buyer Customer approvals, qualifications, certifications, and the like, necessary for making, using and selling alternate non-infringing Goods or Services. Seller shall refund to Buyer the purchase price of any such Goods or Services that Buyer is prohibited from providing, using, selling offering for sale, importing, exporting, or otherwise exploiting.

16. TERMINATION FOR CONVENIENCE

Buyer may terminate, for its convenience, all or any part of this Agreement at any time by written notice to Seller. In such case Buyer's sole obligation will be to pay for completed Deliverables that are delivered to Buyer. Notwithstanding anything to the contrary in the previous sentence, Buyer will not be obliged to pay for any Deliverables in excess of that which would be delivered to Buyer in the "Lead Time Period" of the Order. The "Lead Time Period" for each terminated Deliverable will commence on receipt of Buyer's notice of termination and end upon the expiration of the lead-time specified for a Deliverable. If no lead-time is specified for a Deliverable, the lead-time will be a reasonable average actual lead-time under normal delivery circumstances for that Deliverable. In no event shall costs associated with, or anticipated profit or overhead, on unperformed work be payable to Seller.

17. TERMINATION FOR DEFAULT

If (i) Seller fails to make any delivery or perform Services in accordance with Delivery Dates or otherwise fails to comply with the Order and does not remedy such failure within a reasonable time after receipt of written notice thereof, (ii) Seller fails to make progress to such an extent that performance of the Order is endangered, (iii) any proceeding is filed by or against Seller in bankruptcy or insolvency, or for appointment for the benefit of creditors, or (iv) Seller commits any other breach of this Agreement, Buyer may (in addition to any other right or remedy provided by this Agreement or by law) terminate all or any part of this Agreement by written notice to Seller without any liability and may purchase substitute goods and services elsewhere. Seller shall be liable to Buyer for any cost occasioned Buyer thereby. Buyer also may require Seller to transfer title and deliver to Buyer any completed supplies, and such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights as Seller has specifically produced or specifically acquired for the performance of such part of this Agreement and any technology or information necessary for production of Deliverables. If a court of competent jurisdiction finds that any termination for cause was wrongful, then such termination shall be automatically converted to a termination for convenience and the rights and obligations of the parties will be as set forth in the section hereof titled "Termination for Convenience". The parties agree that the provisions of this Default section shall not apply to failures or delays in making deliveries of Deliverables when such failure or delay is due to any cause beyond the control and without the fault or negligence of Seller as provided in the force majeure provision set forth herein; provided, however, that Buyer may cancel without liability to Seller its purchase of any such items.

18. ASSIGNMENT

- 18.1. Neither this Agreement nor any interest hereunder shall be assignable by either party unless such assignment is mutually agreed to in writing by the parties hereto; provided, however, that Buyer may assign this Agreement to any corporation with which Buyer may merge or consolidate or to which Buyer may assign substantially all of its assets or that portion of its business to which this Agreement pertains or to any third party provider of "integrated services" that will purchase the Deliverables for Buyer's benefit without obtaining the agreement of Seller. Seller shall not subcontract any work called for by this Agreement without Buyer's prior written approval.
- 18.2. Claims for money due or to become due to Seller from Buyer arising out of this Agreement may not be assigned, unless such assignment is made to one

assignee only and covers all amounts payable under this Agreement and not already paid. Buyer shall be under no obligation to pay such assignee unless and until Buyer has received written notice of the assignment from Seller, a certified copy of the instrument of assignment, and suitable documentary evidence of Seller's authority to so assign. However, any payments made to a third party subsequent to Buyer's receipt of notice that any claims for money due or to become due hereunder have been assigned or should be paid thereto shall fulfill Buyer's requirements to make any such payments hereunder.

19. OFFSET

- 19.1. Buyer and its affiliated companies may be required by their customers to fulfill offset and other industrial cooperation obligations in specific countries. These obligations may take the form of technology transfer, purchase of components or services, technical and export assistance or other business transactions.
- 19.2. Seller acknowledges Buyer's exclusive rights in and to any offset credit that is generated as a result of this Agreement and any subsequent subcontracting by Seller to fulfill this Agreement. Buyer may use all or any part of the value of this Agreement, including the value of subcontracts placed by Seller for this Agreement, for satisfying offset obligations of Buyer, Buyer's affiliates or any entity that Buyer transfers such value to. Seller may use the offset credit generated by this Agreement or the subcontracting of this Agreement only upon the receipt of written approval from Buyer.
- 19.3. Seller shall also support Buyer, in any manner reasonably requested by Buyer, and at no additional cost to Buyer, in meeting Buyer's offset requirements in the amounts and in the countries specified by Buyer. Seller shall furnish upon request any certificates or other documents reasonably required by Buyer in fulfillment of Buyer's offset obligations, including, any documents transferring title to the offset credits to Buyer, any documents perfecting any rights granted to Buyer in this section, and take other action as Buyer deems appropriate in order to protect Buyer's interests in offset credits.

20. COMPLIANCE WITH LAWS

- 20.1. Seller shall comply with all applicable national, state, provincial, and local laws, ordinances, rules, and regulations, including but not limited to those relating to:
 - 20.1.a. pollution control such as the Clean Air Act, (42 U.S.C. 7401, et seq. and the Clean Water Act 44 U.S.C. 1251 et seq.); waste disposal, such as the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.; hazardous substances such as the Toxic Substances Control Act, 15 U.S.C. 2601, et seq., and the European Union law and regulations on the Directive on Restrictions on Use of Hazardous Substances in Electrical and Electronic Equipment (Directive 2002/95/EC); occupational health and safety, such as the Occupational Safety and Health Act, 29 U.S.C. 651 et. seq., and any other national, state, provincial, and local laws, ordinances, rules, and regulations dealing with protection of the environment, health and safety;

- 20.1.b. employment practices and child labor such as Sections 6, 7 and 12 of the Fair Labor Standards Act of 1938 (“FLSA”), as amended (29 U.S.C. §§ 201-219) and of regulations and orders of the United States Department of Labor issued under Section 14 thereof. Section 12(a) and Section 15(a) (1) of the FLSA and the Walsh-Healy Public Contracts Act (41 U.S.C. §§ 35-45) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-332), and any amendments thereto, as well as with the provisions of any other laws with respect to labor relations, minimum wages and hours of employment, now in effect or hereafter enacted. Seller also agrees to comply with the provisions of 29 CFR part 470;
- 20.1.c. Equal Employment Opportunity including, without limitation, Code of Federal Regulations: 41 CFR 60 (E.O. 11246; E.O. 11758 (Section 503 of the Rehabilitation Act); 38 U.S.C. 4212 Vietnam Era Veterans Readjustment Assistance Act (“VEVRA”), 48 CFR Section 52.222-35 (Equal Opportunity for Special Disable Veterans, Veterans of the Vietnam Era and Other Eligible Veterans); and 48 CFR Section 52.222-36 (Affirmative Action for Workers with Disabilities), as amended, which prohibit discrimination on the basis of race, color, religion, sex, national origin, disability or veterans status; and 29 CFR Part 470 (Payment of Union Dues or Fees) and other similar federal or state laws or regulations;
- 20.1.d. Data Privacy meaning laws relating to data privacy, trans-border data flow or data protection, including, without limitation, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the implementing legislation and regulations of the European Union member states under the European Union Directive 95/46/EC;
- 20.1.e. Providing, attempting to provide, or offering to provide any kickback (as defined in the Anti-Kickback Act of 1986, the Foreign Corrupt Practices Act or any other applicable national, state or local laws regarding kickbacks or commercial bribery); and
- 20.1.f. export controls and sanctions, including, without limitation, the i) United States Export Administration Regulations , ii) International Traffic in Arms Regulations , iii) regulations and orders administered by the Treasury Department’s Office of Foreign Assets Control and iv) laws and regulations of other countries.
- 20.2. Seller warrants that:
- 20.2.a. the Deliverables meet or exceed the applicable standards imposed by the Consumer Products Safety Act;
- 20.2.b. the Deliverables meet or exceed the safety and health standards established and promulgated under the Federal Occupational Safety and Health Act (Public Law 91-596);

- 20.2.c. Seller has fully complied with the Equal Pay Act and applicable provisions of the FLSA as amended; and
- 20.2.d. this Agreement does not violate any laws or regulations of the territories where Seller conducts business or will perform this Agreement.
- 20.3. **MBE/WBE:** If Seller is a Minority Owned Business Enterprise or a Women Owned Business Enterprise, Seller shall provide a current certificate on an annual basis and promptly notify Buyer if such status is lost.
- 20.4. **Gratuities:** Seller has not and will not offer or give to any employee, agent or representative of Buyer any gratuity with a view toward securing any business from Buyer by influencing such person with respect to the terms, conditions, or performance of any contract with or order from Buyer. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.
- 20.5. **Conflict Minerals:** Seller recognizes, consistent with the public policy underlying enactment of the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC countries"). Accordingly, Seller commits to comply with Section 1502 of Dodd-Frank and its implementing regulations. In particular, Seller commits to have in place a supply chain policy and processes to undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides UTC; (2) due diligence of its supply chain, as necessary, to determine if Conflict Minerals sourced from the DRC countries directly or indirectly support unlawful conflict there, and (3) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Seller shall take all other measures as are necessary to comply with the Act and its implementing regulations, as they may be amended over time.
- 20.6. **REACH:**
- 20.6.a. Seller expressly warrants that all the products and/or materials supplied in the European Union ("EU") under this Agreement will be supplied in full compliance with the provisions of the European Regulation (EC) n° 1907/2006 of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (the "REACH Regulation").
- 20.6.b. Seller expressly warrants that all the substances in the products and materials supplied in the EU that require registration are or will be pre-registered (for phase-in substances) and registered within the applicable REACH statutory deadlines.
- 20.6.c. To the extent that the products and/or materials supplied under this Agreement are imported by Buyer or one of its affiliates or customers in the EU and such fact is communicated to Seller, Seller expressly undertakes to appoint an Only Representative to pre-register and

register the substances in these products and/or materials that require registration or, if so agreed on a case by case basis by Buyer, to supply Buyer at Seller's own cost with all necessary data and information needed for Buyer to pre-register and register the substances in these products that require registration, and to reimburse Buyer for the registration fees paid for these substances. Furthermore, Seller expressly undertakes to notify the European Chemicals Agency of any substances of very high concern as defined either in article 57 of the REACH Regulation (prior to publishing of the "candidate list") or as identified on the "candidate list" (as published in accordance with Article 59.1 of the REACH Regulation) that are contained in these products and/or materials and that require notification or, if so agreed on a case by case basis by Buyer, to supply Buyer at Seller's own cost with all necessary data and information needed for Buyer to notify the European Chemicals Agency of substances in these products that require notification and to reimburse Buyer for any associated fees.

20.6.d. To the extent that the products supplied by Seller qualify as "articles" under REACH, Seller hereby expressly undertakes to investigate and communicate to Buyer if there are any substances intended to be released from these articles that require registration under REACH and if there are any substances of very high concern as defined either in article 57 of the REACH Regulation (prior to publishing of the "candidate list") or as identified on the "candidate list" (published in accordance with Article 59.1 of the REACH Regulation) and present in these articles or parts thereof above 0,1%, in which case Seller shall inform Buyer of the identity of this/these substance(s) and its/their concentration in these articles. This obligation also applies to articles already supplied under this Agreement at the time of the inclusion of the substances concerned on the candidate list.

20.6.e. Seller expressly warrants that all the substances, products and/or materials supplied under this Agreement in the EU are in compliance with the restrictions of Annex XVII of REACH, which will replace Directive 76/769/EEC on June 1, 2009. In addition, Seller undertakes to properly and timely inform Buyer of any additional restrictions set forth by the REACH Regulation or otherwise undertaken by the relevant authorities in the implementation of the REACH Regulation, including but not limited to, any restriction on use or listing in Annex XIV of the REACH Regulation for Authorization, impacting or likely to impact the use, sale or disposal of any substance contained in the products and/or materials supplied under this Agreement.

20.6.f. Seller also undertakes to timely provide the Buyer with all relevant information on the products and/or materials supplied under this Agreement that Seller and/or its suppliers are required to communicate down the supply chain (that is, any subsequent purchaser or user) under the REACH Regulation, and in any case, to provide all the information necessary for the Buyer and/or the actors down its supply chain to timely and accurately fulfill their obligations under the REACH Regulation.

20.6.g. For the avoidance of doubt, Seller shall bear all costs, charges and expenses related to pre-registration and registration under the REACH Regulation of the chemical substances that are the subject of this Agreement.

21. PUBLICITY

Seller shall not make or authorize any news release, advertisement, or other disclosure which shall deny or confirm the existence of this Agreement or which shall make use of Buyer's name or logo without the prior written consent of Buyer, except as may be reasonably required to perform this Agreement.

22. INSURANCE

22.1. Without limiting Seller's duty to defend, hold harmless and indemnify hereunder, Seller agrees to secure and carry as a minimum during the entire term of this Agreement and any Order, the following insurance:

22.1.a. Workers' Compensation Insurance, inclusive of an alternate employer endorsement, in an amount sufficient by virtue of the laws of the U.S., foreign country, state, or other governmental subdivision in which the work or any portion of the work is performed and Employer's Liability Insurance in the amount of \$1,000,000 for any one occurrence;

22.1.b. General Liability Insurance including Premises and Contractual Liability, in which the limit of liability for property damage and bodily injuries, including accidental death, shall be at a minimum, a combined single limit of \$5,000,000 for any one occurrence, unless some other amount is agreed to in writing;

22.1.c. If Seller vehicles are used on Buyer's premises and/or used to accomplish work under this Agreement or an Order or otherwise on behalf of Buyer, Automobile Liability Insurance in which the limit of liability for property damage and bodily injuries, including accidental death, shall be a combined single limit of \$2,000,000 for any one occurrence;

22.1.d. If Seller or its subcontractors have Buyer's materials or equipment in its care, custody or control, Seller shall maintain All Risk Property Insurance in an amount sufficient to meet or exceed the replacement value of such material; and

22.1.e. If Seller is performing professional services on behalf of Buyer, Seller shall maintain Professional Liability Insurance with a limit of not less than \$5,000,000, unless some other amount is agreed to in writing.

22.2. All such insurance shall be issued by companies authorized to do business under the laws of the jurisdiction in which all or part of the Services are to be performed and must have an AM Best financial rating of A- or better or an equivalent rating by another rating agency acceptable to Buyer.

- 22.3. The insurance coverages described above shall be in a form satisfactory to Buyer, and shall contain a provision prohibiting cancellation except upon at least ten (10) days' prior notice to Buyer. All such insurance policies will be primary in the event of a loss arising out of Seller's performance of work and shall provide that where there is more than one insured the policy will operate, except for the limits of liability, as if there were a separate policy covering each insured and shall operate without right of contribution from any other insurance carrier by Buyer. Certified copies of said policies or certificates evidencing such insurance and endorsements naming Buyer as an additional insured or, in the case of All Risk Property Insurance, naming Seller and Buyer as loss payees, shall be filed with Buyer upon execution of this Agreement and before commencement of any work hereunder, and within a reasonable time after any renewals or changes to such policies are issued. To the extent permitted by law, Seller and its insurer(s) agree that subrogation rights against Buyer are hereby waived. Seller shall reflect such waiver in any policy(ies) required under this Agreement and shall advise the amount of available policy limits as of execution of this Agreement and shall identify the amounts of any self-insured retention.
- 22.4. The certificate of insurance shall identify the contract number or work to be performed and shall acknowledge that such coverage applies to liabilities incurred by Seller, its employees, invitees or agents under the Agreement and that such insurance shall not be invalidated by any act or neglect of Seller whether or not such act or neglect is a breach or violation of any warranty, declarations or conditions of the policies.
- 22.5. Seller agrees to insert the applicable substance of this provision in all major subcontracts entered into by Seller to support work performed under the Order.

23. AUDIT RIGHTS

In addition to any other inspection or audit rights granted to Buyer hereunder, Buyer may inspect and audit, on reasonable notice, Seller's books, records and its facilities, or such parts of its facilities as may be engaged in the performance of this Agreement.

24. FORCE MAJEURE / DISASTER RECOVERY

- 24.1. Neither Seller nor any Buyer shall be liable for damages for any failure or delay in the performance of this Agreement or any Order resulting from causes beyond its reasonable control including, but not limited to, unforeseeable events such as acts of God, acts of Government, war, court order, riots, natural disasters, and labor strikes. Buyer may cancel without liability to Seller its purchase of any Deliverables affected by Seller's failure or delay in performance. The party incurring the delay shall give timely notice to the others of any such event and shall use all reasonable efforts to avoid or remove the cause and resume performance with minimum delay. If requested by Buyer, the parties shall jointly prepare a contingency plan to address the potential impact of any such event.
- 24.2. Seller that is: (i) a sole source of supply; or (ii) providing Deliverables whose lead-time exceeds one hundred twenty (120) days, shall develop and maintain a Disaster Recovery Plan. The said plan must include strategy and actions for recovery and continuation of business, related to production of Seller's

Deliverables furnished under this Agreement, in the event of a disaster or emergency in order to prevent or limit interruption of supply of Deliverables. Seller shall furnish a copy of Disaster Recovery Plan to Buyer upon request.

25. DISPUTE RESOLUTION / GOVERNING LAW

- 25.1. Both parties agree that they will endeavor to resolve any disputes arising from or related to this Agreement amicably through discussions with each other; and that prior to either party filing legal action against the other (except for equitable actions that may be necessary to protect a party's rights), they will enter into informal settlement discussions between management personnel of each party. The settlement discussions will commence following receipt of written notice by one party to the other and will conclude within a 60-day period, unless the parties agree to a different time period. Such settlement discussions will include attempts that are at least two tiered; meaning that if one level of management from each side cannot resolve the dispute, then each party will appoint a higher level of management to review the dispute and endeavor to reach resolution. The purpose of this section is to prevent costly litigation where early frank and pragmatic discussions between the parties could avert such litigation.
- 25.2. This Agreement shall be interpreted in accordance with the plain English meaning of its terms and the construction thereof shall be governed by the laws of the State of Connecticut, USA without regard to conflicts of law principles. Buyer may, but is not obligated to, bring any action or claim relating to or arising out of this Agreement in the appropriate court in the jurisdiction described above, and Seller hereby irrevocably consents to personal jurisdiction and venue in any such court, hereby appointing the pertinent Secretary of State or other applicable government authority as agent for receiving service of process. Notwithstanding the foregoing, if Buyer in good faith determines that enforcement of a judgment granted by a Connecticut court would not be given full faith and credit by a court in a jurisdiction where enforcement may be sought, Buyer may bring the action in that jurisdiction under Connecticut law.
- 25.3. Any action or claim by Seller with respect hereto shall also be brought in the appropriate court in the jurisdiction described above, if Buyer so elects. Accordingly, Seller shall give written notice to Buyer of any such intended action or claim, including the intended venue thereof, and shall not commence such action or claim outside of such jurisdiction if Buyer, within thirty (30) days from receipt thereof, makes its election as aforesaid. If Buyer and Seller mutually agree to participate in alternative dispute resolution, Seller agrees that all alternative dispute resolution proceedings shall take place in Connecticut.
- 25.4. The parties specifically disclaim application to this Agreement of the United Nations Convention on Contracts for the International Sale of Goods.

26. INTERNATIONAL TRADE COMPLIANCE

- 26.1. **Compliance with International Trade Compliance ("ITC") Laws:** Seller shall comply with all ITC Laws.

26.2. **Denied Party Screening:** Seller shall perform denied party screening on its employees and other parties (including sub-tier suppliers) whom Seller engages or solicits to engage to perform production activities or Services under this Agreement. This requirement is intended to ensure that Seller identifies any person or entity, whom Seller engages or solicits to perform production activities or Services under this Agreement, that is ineligible to perform such activities or Services because of any embargo, sanction, debarment or denied party designation. In furtherance of this obligation, Seller shall:

26.2.a. not engage any Specially Designated National (“SDN”), as determined by the U.S. Office of Foreign Assets Control (“OFAC”), to perform production activities or Services under this Agreement; and

26.2.b. not engage any person or entity to perform production activities or Services under this Agreement when:

26.2.b.1. such person or entity is identified as a denied party pursuant to any embargo, sanction, debarment or denied party designation maintained by the U.S. government or any non-U.S. government or union of states (e.g., European Union); and

26.2.b.2. the reason(s) for such embargo, sanction, debarment or denied party designation apply to the production activities or Services subject to this Agreement;

26.2.b.3. except where such embargo, sanction, debarment or denied party designation conflicts with the anti-boycott laws of the United States.

Seller shall notify Buyer immediately, in writing, of any of Seller’s employees or sub-tier suppliers who have been designated as a SDN, debarred, sanctioned or designated as a denied party, and have performed production activities or Services under this Agreement. Seller shall conduct periodic re-screening on all entities described above on no less than a quarterly basis. Seller shall maintain records of its performance of denied party screening for a period of five-years following completion of screening and make such records available to Buyer upon request. Seller shall incorporate this provision in all subcontracts with its suppliers or independent contractors with whom Seller engages or employs, or intends to engage or employ, to perform production activities or Services under this Agreement

26.3. **Export Licensing Responsibility:** If this Agreement requires either party to obtain government-approved export authorization to facilitate activities and obligations set forth under this Agreement, the parties shall mutually exercise reasonable efforts to support the preparation and management of the authorization in full compliance with applicable government regulations. The parties shall without delay respond to requests for supporting documentation, including clarifying questionnaires or any other requested information necessary to secure government authorization. Each party, as applicable, shall be individually responsible for obtaining required documentation or other information

from any third party required by such party to perform its obligations under this Agreement. Failure to obtain any required documentation or information from a third party shall result in the third party's exclusion from the government authorization. The parties shall exchange copies of all government export authorizations related to the Technical Data, Goods or Services, and all provisions or conditions or information relating to the authorization, including but not limited to, any restriction on sublicensing, retransfer, resale or re-export, any requirement for non-disclosure agreements, and any limitation on individuals having access to Technical Data, Goods or Services. Each party, as applicable, shall be individually responsible for compliance with all government export authorizations, including without limitation ensuring that all export-related paperwork and documentation (e.g., Destination Control Statements, Electronic Export Information filed via Automated Export System) are properly completed and timely filed.

- 26.4. **Export and Import Classification:** Where known, or where Seller is the design authority for the Technical Data, Goods or Services that are subject to this Agreement, Seller shall provide Buyer with (i) the applicable Harmonized Tariff Schedule Number, (ii) either (a) the United States Munitions List ("USML") category of such Technical Data, Goods, or Services that are controlled by the ITAR, or (b) the Export Control Classification Number ("ECCN") of such Technical Data, Goods or Services that are controlled by the EAR, including the ECCN of components comprising the Technical Data and/or Goods if such classification differs from the ECCN of the Technical Data and/or Goods, and (iii) any analogous classification under any other applicable law. If, under this Agreement Seller will engage in any manufacturing or exporting of USML items, or the provision of defense services (as defined in 22 C.F.R. § 120.9), Seller shall maintain registration with the Directorate of Defense Trade Controls ("DDTC") as may be required by 22 C.F.R. Part 122 of the ITAR. Upon request, Seller shall provide Buyer annually with its DDTC registration expiration date.
- 26.5. **Brokering:** Seller acknowledges that it shall not engage in brokering activity as that term is defined in 22 C.F.R. § 129.2 in conjunction with activity authorized pursuant to this Agreement.
- 26.6. **Technical Data Transfer:** Seller shall not export, re-export, transfer, disclose or otherwise provide physical or electronic access to Technical Data to any person (including unauthorized third-party information technology ("IT") service providers) not authorized to receive Technical Data under existing ITC Laws and/or export authorization, or modify or divert such Technical Data to any military application or other end-use prohibited by applicable ITC Laws. Seller shall develop and implement IT security procedures which ensure that Technical Data is accessible only by authorized persons. Any subcontracts for the manufacture of Goods, provision of Technical Data, or the provision of Services shall contain all the limitations of this Section and shall require compliance with all applicable export licenses or authorizations.
- 26.7. **Destruction or Return of Technical Data:** Upon completion of performance under the Order, and expiration of recordkeeping obligations under this Agreement, Seller and its suppliers shall destroy or return to Buyer all Technical Data, as instructed by Buyer. Destruction applies to both physical and electronic

copies of Technical Data, including archived copies. Destruction may include cross-cut shredding, burning or chemically reverting to pulp or other similar methods, which preclude use in full or partial form. Electronic copies of Technical Data must be permanently deleted from all servers, systems and local devices.

- 26.8. **Destruction of Goods:** Upon completion of its performance under the Order, and expiration of recordkeeping obligations under this Agreement, Seller and its suppliers shall destroy or return to Buyer all Goods, as instructed by Buyer. For the purpose of this Section, destruction means the act of eliminating the functional capabilities, any offensive or defensive advantages or capability, and inherent military design features from Goods and rendering Goods useless beyond repair, rehabilitation, and restoration, destroying any recognition characteristics such as the Good's key points, original identity, utility, form, fit, function, and the removal of any unique identifiers including part numbers, serial numbers, and any accompanying data before being considered recyclable, waste, or discarded material. Methods and degree range from removal and destruction of critical features to total destruction by cutting, crushing, tearing, mangling, shredding, melting, burning, scrapping, or alteration, etc. Destruction applies to Goods in both serviceable and unserviceable condition.
- 26.9. **Required Notices:** Seller shall promptly notify Buyer if it becomes aware of any failure by Seller or its supplier to comply with this Section (International Trade Compliance ("ITC")) and shall cooperate fully and promptly with Buyer in any investigation of such failure to comply. Seller shall also promptly inform Buyer of any name change, address change or change in ownership or control of Seller.
- 26.10. **Technology Control Plan:** When the terms of this Agreement require access to or possession of Technical Data controlled under the ITAR or at an anti-terrorism level or higher under the EAR, or the equivalent level of controls under applicable and governing non-U.S. export regulations, Seller shall create and follow a Technology Control Plan ("TCP") that, at a minimum, incorporates the following elements: (i) facility security; (ii) international trade compliance training program; (iii) information technology security; (iv) record keeping requirements; (v) denied party screening as defined in this Section; and (vi) personnel oversight (including without limitation, oversight of non-U.S. persons, dual third country nationals, employees, and visitor management). Seller shall make a signed copy of the TCP available to Buyer within thirty (30) days of request.
- 26.11. **This Section shall apply to transactions between P&WC and Seller:**
- 26.11.a. Seller certifies that none of the Technical Data, Goods or Services subject to the Order are controlled by the ITAR. In making its classification, Seller may assume, to the extent that P&WC is the design authority, the design is not ITAR-controlled, unless P&WC specifically indicates otherwise. Notwithstanding any other provision in the Agreement or the Order, no Technical Data, Goods or Services controlled under the ITAR shall be transferred to P&WC.
- 26.11.b. In the event that Seller's Technical Data, Goods or Services are controlled under the ITAR other than as the sole and direct result of P&WC's design, act or omission, Seller shall:

- 26.11.b.1. without delay, notify P&WC in writing and immediately cease all shipments of such ITAR-controlled Technical Data, Goods or Services until the necessary government authorizations are duly issued to Seller (with a copy to P&WC) and P&WC's written consent for such shipments has been obtained; and
- 26.11.b.2. at its own cost, with no change in price and within a timeframe compatible with P&WC's business needs, replace or substitute the ITAR-controlled Technical Data, Goods or Services with a substitute that is not ITAR-controlled, while fulfilling all requirements under the Agreement or the Order.

26.12. Country of Origin.

- 26.12.a. **Country of Origin:** "Country of Origin" shall mean either the country where a Good has been wholly obtained or, when more than one country is concerned in the production of the Good, the country where the last substantial transformation has been carried out. The Seller shall identify the Country of Origin of all Goods on the commercial invoice or pro forma invoice accompanying the shipment, and in any other format as Buyer may direct, including but not limited to, electronic, and/or scan-readable format. Where the Seller is not the manufacturer of the Good, it shall obtain the Country of Origin from the manufacturer of such Good.
- 26.12.b. **Country of Origin Marking:** Seller shall mark all Goods with the English name of the Country of Origin in accordance with the local laws of the destination country. Where the Good is exempt from the Country of Origin marking requirements of the destination country or no such markings are otherwise required, Seller shall mark the container of such Good with the name of the Country of Origin of the Good.
- 26.12.c. **Preferential Treatment:** Upon Buyer's request, Seller shall provide, or assist in obtaining from its downstream suppliers, certificates of origin, declarations, and/or affidavits necessary to support Buyer's claims for duty-free or preferential duty treatment under international agreements, multi-lateral or bilateral free trade agreements, or other preferential tariff programs (e.g., Generalized System of Preferences, North American Free Trade Agreement (NAFTA), U.S.A. – Singapore Free Trade Agreement, U.S. Goods Returned, etc.).

Seller shall maintain and make available to Buyer all records supporting any certificates of origin, declarations, and/or affidavits provided to Buyer as support for Buyer's claim for duty free or preferential duty treatment for five years after the date on which the aforementioned document(s) were provided.

Buyer shall have the right, on reasonable notice, to inspect and audit all records relating to the documents set forth above, including financial books, records, and other documents establishing the value of all direct and indirect materials and costs used in the production of imported Goods. Where Seller provides a written objection within three (3) days of Buyer's request to inspect and audit, Seller shall provide access to such records to a third party consultant designated by Buyer.

- 26.13. **Importer Security Filing:** For imports into the United States, Seller shall provide Buyer or Buyer's designated agent in a timely fashion with all the data required to enable Buyer's compliance with the U.S. Customs' Importer Security Filing regulation, see 19 C.F.R. Part 149 (the "ISF Rule") for all of Seller's ocean shipments of Goods to Buyer destined for or passing through a U.S. port. Seller will provide Buyer or Buyer's designated agent with accurate "Data Elements" as defined in and required by the ISF Rule in a timely fashion to ensure Buyer or Buyer's designated agent has sufficient opportunity to comply with its filing obligations.
- 26.14. **Duty Drawback:** Seller agrees to assign to Buyer any and all of Seller's U.S. Customs duty drawback rights related to the Goods furnished hereunder in order for Buyer to seek duty drawback. Such duty drawback rights shall include rights developed by substitution and duty drawback rights obtained from sub-tier suppliers related to the Goods. Seller agrees to inform Buyer of the existence of such duty drawback rights of which Seller becomes aware. Seller agrees to furnish upon request documents that Buyer reasonably requires, including, but not limited to, proof of importation and signed U.S. Customs Form 331 (Certificates of Manufacture), for Buyer to recover import duties related to the Goods. Seller further agrees to provide such assistance to Buyer as requested in connection with the recovery of said import duties.
- 26.15. **Security Programs:** Seller shall comply with all requirements of the border security programs of the destination country (e.g. Customs Trade Partnership Against Terrorism (C-TPAT), Authorized Economic Operator (AEO), Partners in Protection (PIP), etc.
- 26.16. **Customs Documentation:** Seller shall provide complete and accurate customs documentation, including without limitation, documentation regarding entry requirements, classification, valuation, preferential treatment, duty drawback and trade terms.
- 26.17. **Anti-Dumping/Countervailing Duties:** Seller shall inform Buyer of any applicable anti-dumping or countervailing duty, investigation and/or orders, and shall provide Buyer any documentation necessary to establish, where applicable, that imported Goods are outside the scope of the orders.
- 26.18. **Covenants Against Kickbacks and Political Contributions.**
- 26.18.a. Seller has not offered or given and shall not offer or give anything of value (in the form of entertainment, gifts, or otherwise) to Buyer's

employees or representatives for the purpose of obtaining the Order or favorable treatment under the Order.

- 26.18.b. Seller represents and warrants that it has not made, nor will it make, or offer to make any political contributions, or pay, or offer to pay any fees or commissions in connection with these Terms and Conditions, the Agreement or any Order. With respect to defense articles and/or defense services, Seller represents and warrants that it has not and will not pay or offer to pay for the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a foreign country or international organization any fees, commissions or political contributions (including any loan, gift, donation or other payment) as described under Part 130 of the ITAR, 22 C.F.R. § 130.

27. MISCELLANEOUS

- 27.1. **Duty To Proceed:** Seller shall proceed diligently with the performance of this Agreement. Except as expressly authorized in writing by Buyer, no failure of Seller and Buyer to reach any agreement regarding a dispute related to this Agreement shall excuse Seller from proceeding. During the pendency of any dispute, Buyer shall continue to pay in accordance with this Agreement for Seller's performance related to matters not in dispute. Notwithstanding the generality of the foregoing, Buyer shall retain its rights with respect to setoff and withholding.
- 27.2. **Independent Contractor:** Seller shall perform the services required under this Agreement as an independent contractor and shall have exclusive control and direction of the persons engaged by Seller to perform such services, including, but not limited to, employees of Seller working at Buyer facilities. Seller assumes full responsibility for the acts and omissions of such persons. Seller shall have exclusive liability for the payment of and compliance with regulations pertaining to local, state, and federal or other governmental entity payroll taxes or contributions, and taxes for unemployment insurance, workers' compensation, social security and/or similar or related protection for such persons, as required by applicable law. Seller shall have no power to legally bind, or act on behalf of, Buyer and shall not hold itself out as an agent of Buyer.
- 27.3. **Survival:** All obligations and duties under any provisions, which by their nature extend beyond the expiration or termination of this Agreement, including but not limited to warranties, indemnifications, intellectual property (including protection of proprietary information) shall survive the expiration or other termination of this Agreement of which these provisions are made a part.
- 27.4. **Waiver:** Buyer's failure to seek a remedy for any breach by Seller or 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 be deemed a waiver for any such terms, conditions, rights or privileges or any other terms, conditions, or privileges whether of the same or similar type. Acceptance of any Deliverables or payment therefore shall not waive any breach.

- 27.5. **Remedies:** Seller shall be liable for any damages incurred by Buyer as a result of Seller's acts or omissions under this Agreement. 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.
- 27.6. **Partial Invalidity:** If in any instance any provision of this Agreement shall be determined to be invalid or unenforceable under any applicable law, such provision shall not apply in such instance, but the remaining provisions shall be given effect in accordance with their terms unless the purposes of the Agreement can no longer be preserved by doing so.
- 27.7. **Interpretation:** This Agreement shall be construed as if drafted jointly by the parties and no provision in this Agreement shall be interpreted for or against any party because that party or that party's legal representative drafted the provision.
- 27.8. **Captions:** The captions, headings, section numbers, and table of contents appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision hereof.
- 27.9. **Seller Code of Conduct:** Seller shall adopt and comply with a code of conduct or policy statement regarding business conduct, ethics and compliance that satisfies, at a minimum, the principles and expectations set forth in the United Technologies Corporation Supplier Code of Conduct available at the UTC Supplier Site (<http://www.utc.com/Suppliers/Pages/Supplier-Code-of-Conduct.aspx>) ("Supplier Code of Conduct"). Seller shall have management systems, tools and processes in place that (a) ensure compliance with applicable laws and regulations and the requirements set forth in the Supplier Code of Conduct; (b) promote an awareness of and commitment to ethical business practices, including, without limitation, the expectations set forth in the Supplier Code of Conduct; (c) facilitate the timely discovery, investigation (including cooperation with any Buyer initiated investigation involving Seller), disclosure (to Buyer and others as appropriate) and implementation of corrective actions for violations of law, regulations, this Agreement, an Order, or the expectations set forth in the Supplier Code of Conduct; and (d) provide training to its employees on compliance requirements, including the expectations set forth in the Supplier Code of Conduct.