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Approved By Owner: THINUS SMIT		Approved By: Abdul Carim	

REVISION RECORD SHEET

ISSUE NO.	ISSUE MADE BY	DATE	REMARKS
4	L Delport	2017-04-10	Header, footer and company name changed
5	D Pillay	2017-12-08	Updated para 5.6.14,5.6.15,5.6.16, 21.3 & 21.8 with requirements as per 8.4.3 g, h, l ,j ,m of EN9100:2016



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1. INTRODUCTION

1.1 This document deals with the Standard Terms and Conditions of Procurement that shall apply in the event of an agreement between Denel Aeronautics and a Supplier for the purchase of Goods and/or Services by Denel Aeronautics.

2. SCOPE AND APPLICATION

- 2.1 These Standard Terms and Conditions of Procurement shall apply to all Purchase Orders placed by Denel Aeronautics.
- 2.2 The latest issue of the Denel Aeronautics Standard Terms and Conditions of Procurement (this document) shall supersede any other conditions of purchase. In the event that there are contradictory requirements,, the specific conditions stipulated in the Purchase Order shall take precedence over any such conflicting provisions of the Standard Terms and Conditions of Procurement.
- 2.3 If any individual term/s of these Standard Terms and Conditions of Procurement cannot be applied for any reason whatsoever, all other terms and conditions will remain unaffected.

3. DEFINITIONS AND INTERPRETATION

3.1 In these Standard Terms and Conditions of Procurement, unless inconsistent with or otherwise indicated by the context, the following terms shall have the meaning ascribed to them hereunder:

- 3.1.1 "Advance Payment" Means an upfront payment that may be made by Denel Aeronautics to the Supplier.
- 3.1.2 "Agreement" Means this Agreement and all Annexures and/or appendices relating hereto.
- 3.1.3 "AS-9100" Means the quality management system specific to the Aviation, Space and Defence industries issued by the Americas Aerospace Quality Standards Group (Aaqs) Committee G-14 of the Society of Automotive Engineers



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(“SAE”)

- 3.1.4 “Background Intellectual Property” Means unique Intellectual Property information Intellectual owned by one of the Parties before the execution of this Agreement and/or developed independently by a Party before the execution of this Agreement.
- 3.1.5 “BBBEE” Means Broad Based Black Economic Empowerment as provided for inspection 1 of the Broad Based black Economic Empowerment Act, 53 of 2003.
- 3.1.6 “Business Day” Means each day of the week excluding a Saturday, Sunday and Public Holidays in the Republic of South Africa.
- 3.1.7 "CFE" Means Customer Furnished Equipment / Denel Aeronautics tooling and/or material to be incorporated into the Deliverable(s) by the Supplier and shall also include all data and/or information reasonably required by the Supplier as set out in the Proposal Quotation /Contract;
- 3.1.8 “Codes of Good Practice” Good means the Broad-Based Black Economic Practice Empowerment Codes of Good Practice, as amended from time to time, and issued in terms of Section 9(1) of the Broad Based Black Economic Empowerment Act, 53 of 2003
- 3.1.9 “Confidential Information” Shall bear the meaning ascribed to it in - 15.1 Information.
- 3.1.10 “ Denel Aeronautics” Means Denel Aeronautics SOC Ltd, hereinafter referred to as “Denel Aeronautics” or the “Denel Aeronautics” person authorised in writing to represent Denel Aeronautics.
- 3.1.11 “Data” Means all information in whatever form and contained in and on various media such as paper, magnetic or electronic media or otherwise, identified either as Deliverables or as data required from Denel Aeronautics / Supplier to execute the Purchase Order;
- 3.1.12 “Deliverable(s)” Deliverable(s) / means, inter alia, components, systems, sub- Milestone” systems, parts, hardware, software, documentation, data, services and spares delivered by the Supplier to Denel Aeronautics in terms of the Purchase Order and as further described in the Proposal / Quotation, read together with the Delivery Schedule contained therein;
- 3.1.13 “Delivery” Means the schedule for delivery for the Schedule



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“Deliverable(s) or the performance of Services in terms of the Purchase Order, as set out in the Proposal / Quotation;

- 3.1.14 “Foreground Intellectual Property” Means Intellectual Property developed during the Intellectual course of a Purchase Order or as a result thereof;
- 3.1.15 “Goods” Means work, training, technical support, logistic support and any other services to be supplied by the Supplier including Deliverables in terms of the Purchase Order;
- 3.1.16 “Incoterms 2012” Means the latest published set of pre - defined commercial terms published by the International Chamber of Commerce (ICC);
- 3.1.17 “Inspection Release Certificate” Means a document which is prescribed by Denel Aeronautics and signed by an official duly authorised in terms of Denel Aeronautics’s Delegation of Authority, indicating acceptance of the Goods and, where prescribed, proof of delivery in terms of the conditions of the Purchase Order.
- 3.1.18 “Intellectual Property” Means any intangible asset which can be valued taking the form of any patent applications whether these have been provisionally registered or granted, invention, copyright, trademarks, design rights (whether registered or unregistered), know-how, software design, database rights, rights to data gathered and captured and all other intellectual property of whatever nature developed during the contingency of the Purchase Order and these Standard Terms and Conditions of Procurement or any extension; “Know-How” means all confidential information of whatever nature relating to the intellectual property and its exploitation as well as all other confidential information generally relating to the manufacture, use and sale of relevant products, including technical information, manufacturing techniques and designs, specifications, formulae, systems, processes, information concerning materials, and marketing and business information generally.
- 3.1.19 “ISO9001” Means the ISO (International Organisation for Standardisation) requirements of a quality management system and refers to the current version at the time of placement of a Purchase Order by Denel Aeronautics.
- 3.1.20 “Parties” Means Denel Aeronautics and the Supplier and “Party” shall be construed accordingly;



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- 3.1.21 "Proposal Quotation" Means the document submitted to Denel Aeronautics which contains the offer from the Supplier, together with any annexures thereto, and to which these Standard Terms and Conditions of Procurement are attached and which shall form the basis of the contractual relationship between the Parties.
- 3.1.22 "Purchase Order" Means the Order(s) to be placed by Denel Aeronautics on a Supplier in terms of an agreement, not limited to work, equipment, machinery, tools, materials or services.
- 3.1.23 "Purchase Price" "Purchase Price" means the price(s) quoted by the Supplier and accepted by Denel Aeronautics for the Goods offered or the price(s) agreed upon between the parties in terms of these Standard Terms and Conditions of Procurement and the Purchase Order;
- 3.1.24 "Sub-Contractor" Means any person or company who is contracted by the Supplier to supply any part of the Deliverables in terms of these Standard Terms and Conditions of Procurement and the Purchase Order;
- 3.1.25 "Supplier" Supplier" Means the Party with whom the Purchase Order has been placed by Denel Aeronautics and includes the Supplier's successors and permitted assignees;

- 3.2. Any reference to the singular shall include the plural and vice versa;
- 3.3. A reference to any gender shall include the other genders;
- 3.4. Any reference to natural persons shall include legal persons and vice versa;
- 3.5. The headings of clauses in these Standard Terms and Conditions of Procurement are for reference purposes only and shall not be taken into account in construing the contents thereof;
- 3.6. If any word or phrase is defined in any clause hereunder, that word or phrase shall bear the same meaning throughout the remainder of these Standard Terms and Conditions of Procurement.
- 3.7. The true intent and meaning of these Standard Terms and Conditions of Procurement are that the Supplier shall in all respects perform and complete the Purchase Order in a workmanlike and cost-effective manner in accordance with the requirements of the Purchase Order.
- 3.8. Any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at date of signature of the Purchase Order, and as amended or substituted from time to time;

4. QUALITY, HEALTH, SAFETY AND ENVIRONMENTAL REQUIREMENTS

- 4.1 The Supplier's Management System shall be in accordance with the requirements

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specified in requisite standards, namely ISO 9001 and/or AS-9100 , as a minimum, as may be applicable, depending on the scope of supply.

- 4.2 The Supplier shall ensure that all products and services supplied comply with agreed quality assurance including the Denel Aeronautics Quality System Requirement for Suppliers, Ref MAN0004.
- 4.3 In addition to the quality related requirements specified above, suppliers to Denel Aeronautics are required to comply with the Standards pertaining to Environmental and the Health and Safety Standards respectively.
- 4.4 Whilst it is a pre-requisite to comply with the Occupational, Health and Safety Act, 1993 as amended, and other relevant pieces of legislation, it is Denel Aeronautics's expectation that the Supplier familiarises itself with all product and other related legislative requirements, whether stipulated in the Purchase Order or not.

5. PURCHASE ORDER

5.1 Acceptance of Purchase Order

5.1.1 A Purchase Order shall be placed after Denel Aeronautics has accepted the Supplier's proposal in writing.


5.1.2 Should there be a Clause in the Purchase Order, which contradicts the Supplier's proposal or should Denel Aeronautics make a counter-proposal to the Supplier, the Supplier shall within seven (7) days of receipt of the Purchase Order refer the matter to Denel Aeronautics in writing for a decision before commencing with the execution of the Purchase Order. Should the Supplier not raise an objection within the period stipulated in this Clause, then the Purchase Order shall be considered accepted (including any counter-offer made by Denel Aeronautics) by the Supplier and the Supplier shall absolve Denel Aeronautics from any and all liability resulting from such contradiction.

5.1.3 Acceptance of a Purchase Order implies an undertaking by the Supplier to deliver Goods and/or render Services in terms of the Purchase Order and Supplier warrants that such undertaking shall be fulfilled.

5.2 Amendment of Purchase Order

5.2.1 No amendment of the Purchase Order or of these Standard Terms and Conditions of Procurement shall be valid or in force unless such amendment has been put in writing and has been approved by a representative of Denel Aeronautics who is duly authorized and the Supplier's written acceptance of the amendment by duly authorised representatives of the Supplier.

5.2.2 Denel Aeronautics reserves the right, during the execution of the Purchase Order, to require the Supplier, by notice in writing, to alter, amend, omit, add to or otherwise vary any of the Goods and/or Services, without invalidating the Purchase Order. The Supplier shall carry out such amendments and is bound by the same applicable conditions as though

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the said amendments originally formed part of the Purchase Order.

5.2.3 If in the opinion of the Supplier such amendments to the Purchase Order, if carried out, would involve an increase in costs or prevent it from fulfilling any of its obligations or guarantees under the Purchase Order, the Supplier shall notify Denel Aeronautics thereof in writing at least 7 (seven) days before proceeding, and Denel Aeronautics shall decide within a reasonable period whether or not the amendments are to be carried out.

5.3 Additional charges or increased prices

Unless stipulated to the contrary in the Purchase Order, no additional charges of whatsoever nature shall be accepted by Denel Aeronautics unless the Supplier has obtained Denel Aeronautics' acceptance in writing of such additional charges prior to the execution of the Purchase Order. Failure to obtain such prior approval shall entitle Denel Aeronautics to pay on the basis of the original prices contained in the Purchase Order.

5.4 Deviations

The Supplier shall not deviate from the requirements of the Purchase Order in respect of samples, patterns, drawings, specifications, processes or procedures or from any approved prototype without the prior written approval of Denel Aeronautics.

5.5 Purchase Order Number


The Supplier shall quote the Purchase Order and line number in all correspondence, delivery notes, packing lists, VAT invoices and other documents relating to the Purchase Order, and also on all packaging.

5.6 Purchase Requirements

5.6.1 Denel Aeronautics policy requires assurance at all times of satisfactory product quality. Airworthiness legislation and customer contractual requirements necessitate a positive and continued implementation of stringent quality disciplines. This document therefore establishes requirements designed to ensure that each Supplier to Denel Aeronautics operates a documented Quality Management System, which effectively controls all aspects of product quality. Suppliers who demonstrate compliance with these requirements will be eligible to receive orders.


5.6.2 This document is applicable to all Denel Aeronautics Suppliers when referred to within the Purchase Order/Contract and/or Agreement and where applicable shall be flowed-down to the Suppliers Sub-tier Suppliers. All Suppliers and sub-tier Suppliers must be approved by Denel Aeronautics before supplying any items to Denel Aeronautics. In order for Denel Aeronautics to comply with statutory and regulatory as well as our customer requirements, it has become necessary to continually flow down new and updated requirements to all Denel Aeronautics' suppliers.

5.6.3 Denel Aeronautics shall have the right of access to any Suppliers

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premises involved with Denel Aeronautics work. The Supplier shall provide Denel Aeronautics Customers or the Customers authorized representatives and /or Regulatory Authorities rights of access to applicable area of all facilities, at any level of the supply chain where Denel Aeronautics work is being performed. Such access shall be used to verify that the Quality Assurance and process activities being undertaken meet the Denel Aeronautics Quality Management System and contract/order requirements.

- 5.6.4 All documentation and records shall be stored in secured facilities such as access controlled fire proof rooms, safes, steel cupboards, steel drawers etc.
- 5.6.5 Supplier documentation shall be made available to Denel Aeronautics, and their Customers, in support of Audit/investigation activities.
- 5.6.6 Unless otherwise specified, all product records for critical parts and design date shall be kept by the Supplier for the life of the product plus six (6) years.
- 5.6.7 All data stored by electronic means shall be secured, regularly backed up and audited to verify the integrity of the data. All Suppliers shall have a disaster recovery procedure that is defined, documented, implemented and regularly audited for compliance.
- 5.6.8 In the event of insolvency or voluntary closure all pertinent records shall be returned to Denel Aeronautics.
- 5.6.9 A complete, independent and documented physical and functional inspection process to verify that prescribed production methods have produced an acceptable product as specified by engineering drawings, planning, purchase order, engineering specifications, and/or other applicable design documents.
- 5.6.9 Unless otherwise specified, all materials or services supplied must be supplied against Denel Aeronautics or Denel Aeronautics customer's latest revision/issue documentation and requirements.
- 5.6.10 The Supplier's procedures shall ensure that only items, which have passed all inspections and tests, and are in accordance with the Denel Aeronautics drawing and specification requirements are despatched to Denel Aeronautics. Statistical sampling, shall not be used in lieu of 100% Inspection for final acceptance unless agreed in writing by the Denel Aeronautics Quality Assurance Manager or his delegate.
- 5.6.11 The Suppliers shall strictly comply with Denel Aeronautics' Quality requirements relating to this Agreement or any Order by furnishing Denel Aeronautics with a change notification when there are changes to:
 - The Product or Deliverable in terms of the Agreement/Order;

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- The Supplier's processes in executing the Product;
- The Supplier's contractors or service –providers;
- The Supplier's facility location, facilities or equipment and obtain approval if any changes need to be made from the purchaser.

5.6.12 The Parties agree that this Agreement is also subject to the requirements of the Original Equipment Manufacturer (OEM) / Customer. The Supplier shall acknowledge and adhere to such requirements (inclusive of storage and handling of furnished material) and ensure compliance thereof including compliance by its Suppliers and its sub-contractors. All Customer requirements, specification and drawings are flowed down through the FTP server, which is controlled by Denel Aeronautics configuration department.

5.6.13 The Supplier shall not make any decision on any non-conforming product disposition and shall obtain prior written approval from the Purchaser. The Supplier shall submit a written request to the Purchaser upon detection of the non-conforming product in accordance with the requirements set out in the specifications.


5.6.14 The supplier shall use use of statistical techniques for product acceptance, and related instructions for acceptance by the organization, and as applicable critical items including key characteristics

5.6.15 The supplier shall supply Denel Aeronautics sample on request for for test specimens (e.g., production method, number, storage conditions) for design approval, inspection/verification, investigation or auditing or process verification.

5.6.16 Suppliers are expected to act ethically, honestly, and with the highest standard of personal integrity at all times in the performance of work for Denel Aeronautics. Denel Aeronautics' suppliers contribute directly to our product conformity and safety and as such all suppliers are valuable contributors to successful product manufacturing, service and performance.

6 PURCHASE PRICE

- 6.1 The Purchase Price, including any Advance Payment, shall be confirmed on the Purchase Order.
- 6.2 All Purchase Order Prices shall be fixed firm and not subject to revision, unless

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otherwise specified in the Purchase Order.

- 6.3 Prices shall be inclusive of all taxes, exchange rate fluctuations, contributions, insurances and all other costs incurred by the Supplier in performing the Purchase Order up to and including Goods' delivery at the precise final location indicated by Denel Aeronautics, of all packaging, protecting, lashing and anchoring materials and of all necessary documents, accessories, devices and/or appropriate tools in view of a complete and functional use and maintenance, and include all payments for the use of any intellectual property rights including those of third parties or as per agreed Incoterms.

7. TERMS OF PAYMENT

7.1 Delivery of Invoices

- 7.1.1 All payments to the Supplier shall be based on the contractually agreed delivery Milestones or upon delivery of the Goods, following verification or validation of compliance by an authorised Denel Aeronautics employee or its agent or customer.

- 7.1.2 After each delivery of Goods / Milestone achievement pursuant to a Purchase Order, the Supplier shall send duplicate invoices established in accordance with all applicable legal and Denel Aeronautics requirements, and which shall be supported by a Certificate of Milestone Achievement / Certificate of Conformance or proof of acceptance by the authorised Denel Aeronautics employees or delegated agent and shall clearly indicate the following information, as applicable:

- 7.1.2.1 Denel Aeronautics' Purchase Order number and date;
- 7.1.2.2 deliverable / Milestone description;
- 7.1.2.3 deliverable / Milestone price value;
- 7.1.2.4 VAT claimed;
- 7.1.2.5 advance payment deduction;
- 7.1.2.6 Total amount claimed;

- 7.1.3 The Supplier shall clearly state on all invoices whether VAT is applicable. VAT invoices shall be submitted for each delivery in accordance with Value Added Tax Act, 89 of 1991.


- 7.1.4 No invoice shall relate to more than one Purchase Order.

- 7.1.5 Invoices and statements shall be forwarded to Denel Aeronautics' Finance Department.

- 7.1.6 Denel Aeronautics reserves the right to return any incorrectly issued invoice to the Supplier.

- 7.1.7 The absence of an express rejection of an invoice shall not constitute acceptance thereof. Payment of an invoice shall not constitute acceptance of any Goods ordered or delivered.

- 7.1.8 For acceptance of Goods by Denel Aeronautics to be valid, such acceptance

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must be expressed and explicit.

7.2 **Payment Period**

7.2.1 Unless otherwise agreed to duly issued and undisputed invoices shall be paid sixty days (60) days after calendar month-end and after receipt of the Supplier's month-end statement by Denel Aeronautics' Finance Department, provided that the Goods have been received and accepted by Denel Aeronautics. However, Denel Aeronautics shall be entitled to withhold payment if the Supplier fails to meet the requirements of the Purchase Order. In this case the Supplier shall have no claim for interest (even on a portion of the price), penalties or any other compensation.

7.2.2 Any other relevant payment terms agreed upon will be specified in the particular Purchase Order, particularly in instances where payment is linked to delivery milestones.

7.3 **Payment Method**

The preferred method whereby Denel Aeronautics settles a Supplier's invoice is with electronic funds transfer (EFT). It is the responsibility of the Supplier to furnish Denel Aeronautics with its correct banking details on a letterhead signed by the Supplier's bankers. Notification of an EFT transaction will only be sent to the Supplier on request. The onus is on the Supplier to inform Denel Aeronautics of any changes in the banking details of the recipient account and this should be furnished on an original letterhead of the Supplier's bankers.

NB: No e-mail or fax documents will be accepted as proof of change of bank account details.

7.4 **Set-off**

Denel Aeronautics is entitled to set-off any amount owing to Denel Aeronautics by the Supplier against any amount owed to the Supplier by Denel Aeronautics. Where the amounts used for such set-off are in different currencies, the rate of exchange applied for converting the amount concerned into the appropriate currency shall be as charged by Denel Aeronautics bankers. In the case of overseas suppliers, this condition will be applied prior to obtaining approval from the Reserve Bank.

8. **DELIVERY**


8.1 **Packaging**

8.1.1 Unless specified in the Purchase Order and accompanying documentation, packaging materials and methods will be selected by the Supplier to minimise cost of usage and to meet environmental protection requirements.

8.1.2 Every package delivered against the Purchase Order must be clearly marked by the Supplier and shall:

8.1.2.1 Be clearly marked with Denel Aeronautics' Purchase Order and item number and the Suppliers name.

8.1.2.2 Obtain a packing slip showing the name of the Supplier, Denel Aeronautics' Purchase Order and item number and a detailed listing of the

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contents of the case.

8.1.2.3 Be accompanied by a waybill which shall reflect the Supplier's name, Denel Aeronautics' order number and the Goods delivered.

8.1.3 Unless otherwise agreed to in writing Goods shall be packed in full accordance with the accompanying Packing and Marking Specification so that they will not be damaged during transportation or handling. All items shall be properly marked according to (i) applicable rules, especially in the case of dangerous Goods, if any, (ii) Denel Aeronautics' instructions, and at a minimum marking shall set out Denel Aeronautics' Purchase Order number, Supplier's identification, item number, place of delivery, item description, weight and quantity, and all markings required for proper delivery and assembly. Sling and handling points shall be provided with the Goods.

8.1.4 If Denel Aeronautics so requests, the Supplier shall take back all packaging material after delivery.

8.1.5 The Supplier shall be responsible for the packaging of Goods in such a manner as to prevent loss or damage in transit and in compliance with the requirements applicable to the mode of transport concerned. The Supplier shall indemnify Denel Aeronautics against any losses, costs or damages caused by or resulting from faulty, incorrect or inadequate packaging.

8.1.6 Packaging materials or containers, excluding ISO containers, will not be returned to the Supplier except where specifically provided for in the Purchase Order and indicated on the waybills or delivery notes. Where provision is made in the Purchase Order for the return of the packaging materials or containers, such packaging materials or containers will be returned at the Supplier's risk and expense. Denel Aeronautics shall, on receipt of a claim supported by a copy of a delivery note, be allowed full credit for materials and containers returned to the Supplier or a third party, at prices quoted for such items.

8.1.7 No allowance shall be made for the mass of bags, containers or packaging materials in determining the mass of Goods delivered.


8.1.8 No transported items, which arrive in a damaged condition, shall be accepted and the Supplier shall be responsible for the transport cost to and from its premises.

8.2 Transportation

The Supplier undertakes to take all measures necessary to perform proper transportation of the Goods by all appropriate means and using all appropriate equipment and accessories, with the assistance of competent and solvent agents or subcontractors where necessary. The Supplier shall organise transportation of the Goods to the place of Delivery in a manner designed to avoid damage to the Goods, and so as to avoid difficulties in unloading the Goods at Denel Aeronautics' place of delivery.

8.3 Technical Documentation - Operating and Maintenance Manuals


Where so required, the Supplier shall deliver to Denel Aeronautics, at such times as may be agreed but at the latest upon delivery of the Goods, all technical

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documentation relating to the Goods, such as operating and maintenance manuals, training manuals, drawings, technical data sheets, product safety sheets, mill inspection certificates, certificates of conformity and any other supporting documentation. If not otherwise specified in the Purchase Order, the delivery of software or of Goods including software will include, for maintenance and/or adaptability reasons, all sources and object codes relating to it. Such technical documentation or any special tools in relation to Purchase Orders remain the property of Denel Aeronautics and shall be considered as integral part of Goods in the meaning of these Standard Terms and Conditions of Procurement.

8.4 Before Delivery

- 8.4.1 The Supplier shall from time to time and where applicable and relevant, as determined in the Purchase Order, furnish Denel Aeronautics with a descriptive statement, in such form as may be required by Denel Aeronautics, of its planning for the execution of the Purchase Order and of the time when, and the order in which it is proposed that the various elements of the Purchase Order are to be executed: Provided that such statement shall not affect, prejudice or be deemed to have amended the Purchase Order or any of the parties' rights in terms thereof. In addition, the Supplier shall supply periodic progress reports as detailed in the Purchase Order.
- 8.4.2 The Supplier shall proceed with the activities required for the execution of the Purchase Order at such a rate as to ensure the completion of each part of the Purchase Order on or before the contractual delivery date. Failure by the Supplier to comply herewith shall entitle Denel Aeronautics, without prejudice to or waiver of its rights under the provisions of clause 27, to call on the Supplier to take such corrective action as may reasonably be required by Denel Aeronautics.
- 8.4.3 In accordance with Clause 8.4, the Supplier shall, when so requested in writing, submit to Denel Aeronautics written reports giving full details of the work carried out, including by its Subcontractors, in connection with the Purchase Order, the total quantities of Goods delivered and any other information as may be reasonably requested. Such reports shall be for such periods and contain such additional information as stipulated by Denel Aeronautics.
- 8.4.4 Denel Aeronautics reserves the right to verify the progress and proper performance of the Purchase Order and to conduct any quality investigations and testing it deems advisable. The Supplier shall provide Denel Aeronautics and its representative's free access to the Supplier's workshops at all times.
- 8.4.5 Denel Aeronautics shall be entitled to request the Supplier to appoint a representative at a particular place where work is or will be performed for Denel Aeronautics, or to render such services as may be required by Denel Aeronautics in terms of the Purchase Order.
- 8.4.6 The Supplier shall inspect Goods for compliance with Purchase Order specifications, quality, weight, and physical dimensions, as well as for any damage to the Goods or their packaging.
- 8.4.7 The Supplier is responsible for the integrity and for delivery of the correct

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quantities.

8.4.8 If the Supplier requires the use of Denel Aeronautics' lifting equipment or employees at the place of delivery, Denel Aeronautics will require at least 24 hours' notice and their use shall be at the Supplier's sole risk.

8.5 Inspection and Acceptance

8.5.1 Denel Aeronautics shall be entitled to subject any Inspection Release Certificate to:

8.5.1.1 written confirmation (certificate of compliance) by the Supplier that the Goods meet the requirements of the Purchase Order in every respect; and/or

8.5.1.2 audit to determine the effectiveness of the Supplier's control of its Subcontractors' activities; and/or

8.5.1.3 observation of the Supplier's activities (such observation and/or audit shall extend to Subcontractors where appropriate); and/or

8.5.1.4 Inspection or testing of the Goods on a continuous or statistical basis.

8.5.2 Where the Purchase Order calls for inspection of the Goods by a person or body not connected to Denel Aeronautics, and the Goods are rejected by such inspecting person or body on reasonable grounds, the Supplier shall bear the cost of such inspection. Where Denel Aeronautics is the acceptance authority, Denel Aeronautics reserves the right to recover its actual costs from the Supplier for all subsequent inspections where the Goods are rejected more than once.


8.5.3 Acceptance of Goods is conditional to verification by Denel Aeronautics' delegated person.

8.5.4 The Supplier shall give at least 7 (seven) days advanced notice in writing to the authorised representative of Denel Aeronautics that the Deliverables are ready for final inspection and acceptance.

8.5.5 Denel Aeronautics may adopt any means necessary to ensure that the correct Goods have been supplied or that the correct materials are being used/have been used in compliance with the Purchase Order. Any equipment necessary for inspection at the Supplier's premises shall be furnished by the Supplier at its own cost.

8.5.6 Denel Aeronautics may, at its sole discretion, opt to inspect the Goods at the Supplier's premises using whatever means it deems fit or as agreed upon between it and the Supplier. This inspection shall not guarantee acceptance of the Goods, which remain subject to formal acceptance after delivery; and shall not constitute automatic acceptance or relieve the Supplier of its obligation in any way whatsoever. The Supplier remains responsible for ensuring that the items conform to the requirements as defined in the Purchase Order and other accompanying documentation that may not be stipulated in the Purchase Order.

8.5.7 Denel Aeronautics shall have a reasonable time after receipt of the Goods and before payment to inspect the Goods so as to ensure conformity with the specifications of the Purchase Order, and Goods received prior to inspection shall not be deemed accepted until Denel Aeronautics has run an adequate test

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to determine whether the Goods indeed conform to such specifications.

8.5.8 The use of a sample of the Goods for the purposes of such inspection shall not constitute an acceptance of the Goods by Denel Aeronautics.

8.5.9 Final acceptance shall not be conclusive with respect to latent defects, fraud or any other gross mistakes on the part of the Supplier.

8.6 Date and Venue

8.6.1 Time of delivery by the Supplier as specified in the Purchase Order is a specific condition of the Purchase Order and of the essence thereof.

8.6.2 Denel Aeronautics reserves the right to cancel and annul the Purchase Order entirely or partly without reference to the Supplier irrespective of the period which may have elapsed from the delivery date stipulated on the Purchase Order to the date of such cancellation, free of penalty and without prejudice to any other rights under the Purchase Order if Goods covered by the Purchase Order are not delivered prior to or on the delivery date stipulated in the Purchase Order, in which event Denel Aeronautics shall in its own discretion be entitled to recover any and all losses or damages suffered.

8.6.3 Denel Aeronautics reserves the right from time to time to amend the delivery date originally specified in the Purchase Order provided that the delivery period shall not be shortened without the written consent of the Supplier.

8.6.4 All Goods and other items which are to be sent to Denel Aeronautics shall be delivered to the address indicated in the Purchase Order or to any other address subsequently notified to the Supplier in writing by Denel Aeronautics.

8.6.5 Before being permitted to enter Denel Aeronautics' property, the Supplier shall produce a delivery note specifying the Goods and quantity, according to Purchase Order to be delivered.

8.6.6 Receipt of Goods by Denel Aeronautics shall take place during Working Hours. Confirmation of receipt of Goods shall in no way imply acceptance of the goods.

8.7 Security Measures


8.7.1 The Supplier shall adhere to all security requirements as may be stipulated by Denel Aeronautics from time to time.

8.7.2 Before being permitted to enter Denel Aeronautics' premises, the Supplier shall produce a delivery note specifying the Goods and quantity, according to a Purchase Order to be delivered.

8.7.3 It is a condition of the Purchase Order that the Supplier's personnel must be in possession of a state-issued identity document when delivering or collecting Goods which necessitates passing through any security gate to gain access to Denel Aeronautics' premises.

8.7.4 Denel Aeronautics shall not be responsible for any costs incurred by the Supplier due to non-compliance with 8.7.3, and any delays in delivery or collection of Goods caused by such non-compliance and resulting in a delay or delays in the performance of the Supplier's obligations shall be deemed to be a breach of the terms and conditions to the Purchase Order and of these Standard Terms and Conditions of Procurement.

8.7.5 The Supplier hereby further grants permission to the security officers at Denel

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Aeronautics to search the Supplier's or its agent's personnel as well as their vehicles and other articles in their possession on entering and existing from, or during their presence on the premises of Denel Aeronautics.

8.7.6 In the event of the Supplier entering the property of Denel Aeronautics, the Supplier shall comply with the safety prescriptions set by Denel Aeronautics. The Supplier shall ensure that such precautions as are requisite for the protection of life and property anywhere on Denel Aeronautics' property shall be taken, and the Supplier shall be liable to Denel Aeronautics for any injury or damage to any person or to any property of Denel Aeronautics, caused by or incidental to, the negligence, default of the Supplier.

8.7.7 Denel Aeronautics shall not be liable for any loss, damage or injury sustained by any Supplier and/or its employees or subcontractors and/or their employees while on the premises, arising from or caused by any activity conducted by Denel Aeronautics and/or its employees.

8.8 Late Deliveries


8.8.1 All late deliveries shall be deemed as breach of contract.

8.8.2 No over or under supplies shall be accepted unless Denel Aeronautics is informed, in writing in good time prior to dispatch of the items, of the quantity involved and Denel Aeronautics has agreed in writing that the under or over supplies will be accepted. Over supplies delivered without the written approval of Denel Aeronautics will not be accepted or be paid for. Should Denel Aeronautics after the fact discover that Goods have been oversupplied, it reserves the right to return the Goods or, at its choice, store them, at the Supplier's costs and risks. Under supplied orders will only be finalised once approval from Denel Aeronautics' user has been received.

8.8.3 If the Purchase Order is not performed in the specified time, Denel Aeronautics is entitled to cancel the Purchase Order and to claim damages from the Supplier and/or to accept delivery and withhold payment from the Supplier as liquidated damages (as set out in 8.8.4 below), without any requirement that Denel Aeronautics give prior notification of default.

8.8.4 All late deliveries will be subject to, but not limited to a minimum of 2% (two percent) of Purchase Order value, per day in delay, including Sundays and public holidays, that such Goods are delayed, up to a maximum of 20% (twenty percent) of the Purchase Order value, which shall constitute liquidated damages. Furthermore, Denel Aeronautics reserves the right to apply team and staff standing time charges including any consequential losses, together with penalties imposed on Denel Aeronautics by its client, as a result of any late delivery by the Supplier. The liability imposed upon the Supplier in terms of this clause shall be deemed to be in addition to and not in substitution of any other remedy at Denel Aeronautics' disposal.

8.8.5 As soon as it appears to the Supplier that the dispatch of the Goods covered by the Purchase Order for any reason will be delayed, so that the stated delivery date requirements cannot or are unlikely to be fulfilled, the Supplier shall immediately notify Denel Aeronautics in writing and provide all information concerning the reason and/or extent as well as details relating to the efforts the Supplier intends to make in order to avoid delay or expedite delivery. The Supplier shall be obliged to obtain written confirmation from Denel Aeronautics that

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the Goods are still required. Failing such confirmation Denel Aeronautics shall be entitled to cancel the agreement constituted by acceptance of the Purchase Order and any costs arising out of the return of the Goods by Denel Aeronautics on the account of late delivery shall be for the Supplier's account.

8.8.6 Denel Aeronautics shall be entitled to retain and apply, as a set-off, as stipulated in 7.4, any amount which may be due on the Purchase Order to the Supplier or such part thereof as may be necessary for the payment of the cost of making good the aforesaid delay or fault by the Supplier. Should the cost of such making good exceed the balance due to the Supplier, the Supplier shall be liable to pay Denel Aeronautics the amount of such excess.

9. STANDARD OR SPECIFIED DOCUMENTATION

9.1.1 A complete listing of all data requirements, as applicable, shall be recorded and updated in annexures to the Purchase Order.

9.1.2 All documents furnished by Denel Aeronautics to the Supplier shall be treated as controlled documents with allocated reference numbers as per the relevant configuration management process.

9.1.3 Proof of compliance documentation needs to be delivered with Goods or as specified in the Purchase Order/ contract - e.g., Test and Measurement reports; Certificates of Conformance (C of C's) as issued by the original equipment manufacturer; and completed and signed off Process Planning Sheets (PPSs) etc. This documentation may form an integral part of the deliverables to Denel Aeronautics and could be required for processing of payments. Failure to comply could lead to rejection of the specific Goods.


10. ACCEPTANCE/REJECTION OF GOODS

10.1 Denel Aeronautics reserves the right, to reject the Goods or any part thereof, if such Goods do not comply with the quality standards/specifications, described or referenced in the Purchase Order, even if the Goods were previously inspected at a Supplier's premises.

10.2 Denel Aeronautics may accept, without prejudice, a portion of the Goods and, at its option, have the Supplier repair or replace any nonconforming portion of the Goods, at the Supplier's expense. Alternatively, if payment has already been effected for whatever reason, and at the discretion of Denel Aeronautics, the Supplier shall refund Denel Aeronautics all payments already made, or issue a credit note in favour of Denel Aeronautics.

10.3 Should rework be required, it shall be at the Supplier's own cost, including any cost related to removal or delivery or risk of such rejected items. Denel Aeronautics shall at its discretion decide on the disposition of rejected items.

10.4 Denel Aeronautics further reserves the right to recover any cost incurred in respect of effort of inspection and consideration of acceptance of non-compliant

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Goods delivered.


- 10.5 If at any time during the warranty period the Goods are found to be defective, the Supplier shall immediately, upon receipt of notification from Denel Aeronautics, remedy the said defect free of charge to Denel Aeronautics by delivery or replacement of the said Goods/Services/. Should the Supplier delay replacement, Denel Aeronautics may have the Goods replaced at the Supplier's expense. The warranty period of replaced Goods shall be the same as for the original Goods. The foregoing warranty shall apply unless specifically excluded.
- 10.6 After 15 days following notification of rejection, the Supplier shall be liable to pay warehouse storage charges for the Goods.

11. PASSING OF OWNERSHIP

- 11.1 Ownership of and responsibility for the Goods shall remain with the Supplier until the Goods have been formally inspected and accepted by Denel Aeronautics at the point of delivery as stated in the Purchase Order.
- 11.2 Subject to the provisions of Clause 10, risk of loss or damage of the Goods shall pass to Denel Aeronautics upon delivery at Denel Aeronautics' specified premises, unless otherwise specified in the Purchase Order by way of an appropriate Incoterm in accordance with 'Incoterms® 2012'.

12. WARRANTY AND DEFECTIVE GOODS

- 12.1 The Supplier warrants that the supplied Goods are free from defects in design, material and workmanship and that the Goods satisfactorily fulfil the performance requirements stipulated by Denel Aeronautics.
- 12.2 The Supplier warrants further that the said Goods meet all applicable statutory requirements and standards, especially those relating to the environment, safety and employment or labour laws and regulations (collectively, 'the Supplier's Warranty') and warrants the Goods for a period of thirty six (36) months after delivery or as otherwise specified and mutually agreed upon, excluding fair wear and tear.
- 12.3 Neither approval by Denel Aeronautics of the Supplier's design nor acceptance of the Goods shall absolve the Supplier from liability for damages resulting from the defective Goods and/or unsatisfactory performance thereof.
- 12.4 Any representations or warranties included in Supplier's catalogues, brochures, sales literature and quality systems shall be binding on the Supplier.
- 12.5 The Supplier shall be liable for any direct, indirect, incidental, special and consequential losses and damages, including loss of profits, incurred by Denel Aeronautics as a result of any delays in delivery, any defects in the Goods or any other deficiencies in the Supplier's performance.
- 12.6 Where capital equipment or accessories are purchased, the Supplier shall ensure


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that sufficient spares are available for a minimum period of 10 (ten) years or as specified in the relevant contract or Purchase Order after receipt of the equipment by Denel Aeronautics. The Supplier further warrants supplying the Goods, and parts or components thereof for repair, maintenance or extensions, through the whole period of the Purchase Order, including the warranty period, and further warrants that their production or distribution will not be halted. If the Supplier decides to stop production of all or part of the Goods after the end date of the Purchase Order, the Supplier shall inform Denel Aeronautics of this fact at least one year in advance or as soon as the Supplier becomes aware, so that Denel Aeronautics may take the necessary corrective measures.

- 12.7 The Supplier agrees that the warranties provided (and such other rights accruing to Denel Aeronautics) under this Clause may be assigned, following an objective assessment of future impact on Denel Aeronautics' business and upon written notice to the Supplier, to any of Denel Aeronautics' affiliates or subsidiaries.

13. Export / Import Licence or Permit

- 13.1 The Supplier shall notify Denel Aeronautics at least 30 days prior to shipment of controlled Goods to enable Denel Aeronautics to apply for an import permit timeously.
- 13.2 Denel Aeronautics shall not be liable for any losses suffered or expenditure incurred by the Supplier or any other person (including losses suffered or expenditure incurred in respect of the manufacture, supply, transport or delivery of supplies), provided it was responsible for applying for such a permit in the first instance, due to the government of the country of origin or any other government failing or refusing to grant, on the grounds of existing legislation, an export license or permit, or cancelling an export permit or license that has been issued. In such an event, Denel Aeronautics shall be entitled to cancel the Purchase Order without any cost implication. All payments already effected shall be repaid to Denel Aeronautics.
- 13.3 The provisions of this Clause shall apply mutatis mutandis where the South African Government refuses to issue an export or import permit or cancels an export or import permit that has been issued.
- 13.4 The Supplier shall ensure that the provisions of any Act(s) or Regulations prohibiting the importation into the Republic of South Africa of certain insects, fungi, diseases or pests by way of certain types of packing materials and containers are complied with, and that any such guarantee or certificate that may be required in terms of such Act(s) or Regulations is obtained and provided at its own expense. Where the Supplier fails to comply with the provisions of such Act(s) or Regulations and the consignments are as a result seized, destroyed or delayed at the port of entry or elsewhere in South Africa, the Supplier shall be liable for any delays, demurrage or any other loss arising from such seizure, destruction or delay.
- 13.5 All Goods to be imported shall be imported in the name of the Supplier/Subcontractor and be re-consigned by it to the delivery address stated

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in the Purchase Order.

14. Controlled Defence Supplies

14.1 Controlled defence supplies are any one or a combination of the following:

- a. United States (US) origin items controlled by US legislation, as described in International Traffic in Arms Regulations (ITAR).
- b. Other foreign origin items controlled by the applicable foreign countries.
- c. South African government non-proliferation controlled items.
- d. South African government conventional arms controlled items.

14.1 Denel Aeronautics must be informed in writing before commencement of performance pursuant to the Purchase Order, and Denel Aeronautics reserves the right to cancel the Purchase Order at no cost to Denel Aeronautics if any article, technology or Proprietary Information is of US origin. A copy of such Export Permit, License or Royalties payable, must be forwarded with the delivery note and Invoice to Denel Aeronautics. If the Supplier fails to inform Denel Aeronautics accordingly, or to forward a copy of such Export Permit, License or Royalties, the Supplier shall be liable for all claims in respect of the use of any article, technology or Proprietary Information and the Supplier indemnifies Denel Aeronautics and holds it harmless against any claims arising or legal cost and losses resulting from the infringement or alleged infringement by or on behalf of Denel Aeronautics.


14.2 If the scope of supply includes items, technical data or services subject to arms control legislation of the Republic of South Africa (RSA) or that are subject to end-user restrictions by the US government or any other foreign government, the Supplier shall, upon delivery, supply Denel Aeronautics with all relevant documentation. The documentation in question forms an integral part of the deliverables to Denel Aeronautics for processing of any payment.

15. Special Tooling, Jigs and Fixtures or Free-issued Materials

15.1 Where special tooling, jigs and/or fixtures or any material (whether raw or otherwise) is free issued or is paid for by Denel Aeronautics and utilised by a Supplier in the manufacturing process of a custom-manufactured item, these items remain the Sole Property of Denel Aeronautics, irrespective of storage location. When a Supplier is required to store these items, it will ensure suitable preservation and storage of such items for future use.

15.2 The onus of establishing that the cost of such equipment has not been included in the price shall remain with the Supplier.


15.3 The Supplier shall periodically, at least annually, supply Denel Aeronautics with a certified inventory listing of all Tools, Jigs and fixtures and/or materials in their possession, belonging to Denel Aeronautics. The inventory listing shall include a report confirming the condition and estimated replacement value thereof.

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- 15.4 The Supplier shall notify Denel Aeronautics in writing of any anticipated cost to preserve, maintain or service such Tools, Jigs or fixtures and materials prior to executing any maintenance.
- 15.5 The Supplier shall be held responsible for these assets and shall be liable for their replacement in the event of loss or damage. The Supplier shall ensure that adequate and all risk insurance cover is taken with a reputable insurance company. Denel Aeronautics shall be entitled to request proof of such insurance.
- 15.6 The Supplier shall ensure that the said equipment is delivered in good order at the premises of Denel Aeronautics, properly marked with The Order and the relevant code number as supplied by Denel Aeronautics for the finished items.
- 15.7 Where the Purchase Order is carried out on premises rented by the Supplier, the landlord shall be informed beforehand by the Supplier of items on the premises that are Denel Aeronautics' property, and the Supplier shall submit written proof to Denel Aeronautics that such notice has been received by the landlord.

16 Handling of Denel Aeronautics -Furnished Equipment

- 16.1 Denel Aeronautics shall at all times endeavour to make available, at agreed times, all identified products / equipment to the Supplier should such a need be necessary. The onus is on the Supplier to ensure that proper or specified handling procedures are followed to prevent damage and / or degradation to the quality of the products. Any damage or degradation of the product in the custody of the Supplier shall be for the account thereof unless the Supplier can provide proof that all reasonable and specified handling procedures were followed.
- 16.2 The Supplier shall not alter the design of any Denel Aeronautics furnished items without the written authority of Denel Aeronautics. In the case that the Supplier has any doubt about the design suitability of any CFE item, or has proposals for design changes, the Supplier shall advise Denel Aeronautics accordingly at the earliest opportunity. The Supplier shall ensure that the design of the installation using CFE is in accordance with the specific requirements of such equipment. Should the CFE be defective in any way, it shall be the obligation of Denel Aeronautics to provide a rectified CFE to the Supplier.
- 16.3 Denel Aeronautics shall not be liable for any CFE that is defective, or which was modified without the prior written authority and approval of Denel Aeronautics and to the extent that this impact on the functionality or utility of the System delivered, any direct and/or consequential costs incurred to rectify the defect shall be for the account of the Supplier.
 - 16.3.1 The CFE may not be transferred to any third party without the written permission of the relevant Denel Aeronautics' Authorised Representative.
 - 16.3.2 The CFE, together with the applicable Transfer of Ownership Certificate, shall be returned to Denel Aeronautics.
- 16.4 When Denel Aeronautics issues raw material and/or parts to a manufacturer for

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the purpose of manufacturing a required item, and the manufacturer scraps the manufactured item due to its error, the cost of the reissued material and/or parts will be for the manufacturer's account.

- 16.5 Denel Aeronautics shall recover the cost of the reissued materials and/or parts at replacement value from the specific Supplier. Where payment is still due to the said Supplier, this cost shall be deducted from such payment. Alternatively, should payment already have been effected for whatever reason, and at the discretion of Denel Aeronautics, the Supplier shall refund Denel Aeronautics all payments already made, or issue a credit note in favour of Denel Aeronautics.

17 Handling of Explosives

- 17.1 To ensure that explosives are safe and of a good quality when delivered to Denel Aeronautics, the Supplier shall supply the following documentation with every consignment of explosives or any item that contains any explosives:


- 17.1.1 A copy of the issue voucher, consignment note and other official documents relative to the dispatch of the explosives.
- 17.1.2 The manufacturer's dispatch note.
- 17.1.3 Official test results certified by the relevant Quality Department.
- 17.1.4 Certificate to confirm date of manufacture.
- 17.1.5 An official document from the manufacturer, stating that the explosives are safe for handling, storage and transport, and indicating the expected shelf-life when stored in an explosives magazine.
- 17.1.5 Material Safety Data Sheet.
- 17.1.6 Explosives UN Code and class certification.
- 17.1.7 If applicable, an Armscor K225 issued by the Armscor Quality Representative.

18 HAZARDOUS CHEMICAL SUBSTANCES

The Supplier of hazardous chemical substances shall, in accordance with the Occupational Health and Safety Act, 85 of 1993 as amended, provide a Material Safety Data Sheet containing sufficient information for the safe handling and storage of hazardous materials and safe disposal of waste generated as specified in Regulation 7(1) of the General Administrative Regulations of 1994, as may be amended, or any such requirements as may be required.

19 ACCESS TO AND USE OF SUPPLIER'S FACILITIES

- 19.1 Denel Aeronautics, its contractors or agents shall be granted access to the Supplier's facilities at all reasonable times. The Supplier shall further ensure that Denel Aeronautics, its contractors or agents are granted access to the facilities of the Supplier's Subcontractors if required.
- 19.2 The Supplier shall allow the use of its facilities and shall give such assistance as

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necessary to enable Denel Aeronautics, its contractors or agents or their employees to carry out any work or task in connection with the Purchase Order.

20 **CONFIDENTIALITY**


20.1 Confidential Information is information of a confidential or proprietary nature in whatever form, and without limiting the generality of the term, shall include:

- 20.1.1 Any of the following information and/or material disclosed or communicated (before or after the conclusion of the Purchase Order) by Denel Aeronautics to the Supplier in connection with or arising out of the relationship:
- 20.1.2. Technical, scientific, commercial, financial or market information, know-how or trade secrets;
- 20.1.3 Data concerning business relationships, processes, services, personnel, architecture, information, demonstrations, or machinery;
- 20.1.4 plans, designs, drawings, functional and technical requirements and specifications;
- 20.1.5 Information relating to Denel Aeronautics' strategic objectives and planning for both its existing and future Information technology needs;
- 20.1.6 Information contained in or constituting Denel Aeronautics' hardware or software, including third party products, and associated material documentation;
- 20.1.7 Intellectual property that is proprietary to Denel Aeronautics or that is proprietary to a third party and in respect of which Denel Aeronautics has rights of use or possession;
- 20.1.8 Information concerning faults or defects in Denel Aeronautics' systems, hardware and/or software or the incidence of such faults or effects;
- 20.1.9 Agreements to which Denel Aeronautics is a party;
- 20.1.10 All other information in whatever form, whether or not subject to or protected by common law or statutory laws relating to copyright, patent, trademarks, registered or unregistered, or otherwise;

20.2 Information regarding the relationship, the fact that discussions are occurring concerning the relationship, any of the terms and conditions applicable to or being discussed by the Parties in relation to the relationship or the existence of the Purchase Order and these Standard T&C's of Procurement;

20.3 Information which by its nature or content is identifiable as confidential and/or proprietary to Denel Aeronautics and/or any third party in relation to or arising out of the relationship or which although not directly related to the relationship is nevertheless disclosed as a result of or in connection with the Parties' discussions of the relationship.

20.4 The Purchase Order and all documents and the like supplied by Denel Aeronautics shall be strictly confidential and no details thereof shall be disclosed without the prior written consent of Denel Aeronautics. The Supplier is obliged to keep and protect this confidentiality and it should not disclose these details under any circumstances to anyone unless permission is granted by

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authorized representatives of Denel Aeronautics. The Supplier shall establish rules to secure the confidentiality.

20.5 During the execution of the Purchase Order governed by these Standard T&C's of Procurement, as well as for an indefinite period thereafter, the Supplier hereby covenants that the proprietary information shall:

20.5.1 Be protected and kept in strict confidence by the Supplier, with the same degree of precaution and safeguards utilised in treating its confidential information of like importance, but in no case any less than reasonable care;

20.5.2 Be only disclosed to and used by those persons within the Supplier's organisation who have a need to know, and solely for the purpose specified in the Purchase Order and these Standard T&C's of Procurement;

20.5.3 Not be used in whole or in part for any purpose other than the purpose of the Purchase Order and these Standard Terms and Conditions of Procurement, without the prior written authorisation of Denel Aeronautics;

20.5.4 Neither be disclosed nor caused to be disclosed, whether directly or indirectly, to any third party or persons other than those mentioned in Clause 20.3.2, which for the avoidance of doubt, precludes disclosure to the Supplier's parent company as well as any of its affiliates, including other divisions and/or subsidiaries of the said parent company, without having been specifically authorised in writing by Denel Aeronautics.

20.5.5 Neither be copied, nor otherwise reproduced or duplicated in whole or in part where such copying, reproduction or duplication has not been specifically authorized in writing by Denel Aeronautics.

20.6 The Supplier is responsible for establishing an effective system to keep the confidentiality by applying observation measures on its employees and the employees of its subcontractors.


20.7 If Denel Aeronautics discovers that the Supplier has disclosed any Confidential Information, then Denel Aeronautics reserves the right to stop the Supplier from executing any Purchase Order without justification if security circumstances demand so, and the Supplier shall be liable for any related damages and/or costs.

20.8 Any information supplied by Denel Aeronautics shall remain the sole property of Denel Aeronautics and shall, on termination or expiry of the Purchase Order and these Standard Terms and Conditions of Procurement on demand by Denel Aeronautics, be returned or disposed of as prescribed by Denel Aeronautics.

20.9 After the termination of these Standard Terms and Conditions of Procurement and expiry of the Purchase Order, the Supplier shall not make any use of any of the Confidential Information in any manner whatsoever, nor shall it in any manner whatsoever disclose such confidential information to any other person.


21 DENEL AERONAUTICS'S INTELLECTUAL PROPERTY RIGHTS

21.1 The Supplier acknowledges Denel Aeronautics' sole and exclusive ownership of and/or rights in and to the Intellectual Property and undertakes not to, at any

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time or in any manner, contest the validity of Denel Aeronautics' exclusive ownership of and/or rights, whether now existing or hereinafter acquired.

- 21.2 The Supplier acknowledges Denel Aeronautics' role and that the Supplier has had no part in the creation or development of, no prior knowledge of, and has no rights to or claims on any elements of Denel Aeronautics' rights to the Intellectual Property.
- 21.3 Where the Purchase Order calls for the design or development of an item, the intellectual property rights arising from such design or development, including but not limited to patents, copyright, designs and know-how, whether register able or not, as well as any rights which may in future arise in respect of all improvements thereto, shall vest in Denel Aeronautics, and only Denel Aeronautics shall have the right to recover royalties, or to apply for the registration of patents, trademarks and/or designs relating to anywhere new device, process, machinery, equipment, etc. which may be developed in the execution of the Purchase Order. The Supplier undertakes to honour Denel Aeronautics' intellectual property rights and all future rights by, inter alia, keeping the know-how and all undisclosed or unpublished material confidential. The Supplier furthermore undertakes not to use, apply, sell or in any way obtain any benefit from the intellectual property rights or the know-how, directly or indirectly, either by itself or in association with any person, otherwise than in accordance with the terms of the Purchase Order.
- 21.4 The Supplier acknowledges and agrees that Denel Aeronautics is entitled to use the intellectual property rights in any manner whatsoever, or to restrict or prohibit the use thereof.
- 21.5 The Supplier accepts that, upon termination of the Purchase Order for whatever reason, it shall not have the right to use or make available the intellectual property rights relating to the items, and that all authorisations granted in terms of the Purchase Order shall be terminated. In this regard the Supplier undertakes to immediately hand over to Denel Aeronautics on request all documents, data packs, drawings and technical data, in any medium whatsoever, relating to the intellectual property rights which came into existence during the execution of the Purchase Order.
- 21.6 The provisions of this Clause shall remain in force, notwithstanding the termination of the Purchase Order for whatever reason.
- 21.7 The Supplier shall, in carrying out the Purchase Order, report to Denel Aeronautics on any manufacturing or testing apparatus or process used or developed, and shall furnish full details thereof.
- 21.8 Should the Supplier develop or design any variation, modification or improvement to Denel Aeronautics' Background Intellectual Property during the execution of the Purchase Order, it shall promptly notify Denel Aeronautics in writing and furnish full details thereof. All rights in respect of such variations, modifications or improvements shall vest in Denel Aeronautics. The Supplier shall, when so requested by Denel Aeronautics, assist in bringing about the registration of such variation, modification or improvement in Denel Aeronautics' name or that of any person as may be stipulated by Denel Aeronautics.

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21.9 The Supplier shall be obliged to include the provisions of Clauses 21.1 to 21.7 mutatis mutandis in any contract with a subcontractor, in such a way that any rights mentioned in Clauses 21.1 to 21.7 shall irrevocably vest in Denel Aeronautics and be directly enforceable against the Subcontractor by Denel Aeronautics.

21.10 The Supplier shall, immediately on becoming aware thereof, inform Denel Aeronautics both in writing and verbally of any infringements or apparent infringements or challenge or threat to Denel Aeronautics' Intellectual Property by any person together with all parties thereto which are known to the Supplier, and undertakes to assist Denel Aeronautics fully in taking such action as Denel Aeronautics deems appropriate.

21.11 The Supplier shall have no claim of whatsoever nature against Denel Aeronautics arising from or flowing from any damages suffered by the Supplier as a result of any patent or trade mark relating to any of the Goods sold being infringed, cancelled, breached or otherwise set aside or declared invalid.

22 LIABILITY FOR ROYALTIES

22.1 The Supplier shall, where applicable, pay all royalties and expenses and be liable for all


claims in respect of the use of intellectual property rights for or in connection with any article or the use of any article supplied or used under the Purchase Order, and shall indemnify Denel Aeronautics against any claims arising or legal costs and losses resulting from the infringement or the alleged infringement of such rights.

23 LIMITATION OF LIABILITY AND INDEMNITY

23.1 The Supplier shall indemnify, hold harmless and defend Denel Aeronautics, its agents, its contractors and employees, from and against all claims, liabilities, damages, losses and expenses, including attorneys' fees on the scale as between attorney and own client, arising out of or in any way connected with the Goods provided and/or Services rendered under the Purchase Order, including, without limitation, any claim by a third party against Denel Aeronautics alleging that the Goods provided under the Purchase Order and these Standard Terms and Conditions of Procurement infringe a patent, copyright, trademark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other products, software or processes.

24 REMEDIES FOR INCORRECT CLASSIFICATION OR FALSE CLAIM

24.1 Where a Purchase Order has been awarded to a Supplier by virtue of a statement made by the Supplier to the effect that the Goods offered by it are entitled to a certain classification or preference for local production, manufacture or assembly, or by virtue of a statement made by it that it is subject to Denel Aeronautics' preferential procurement policy, and such preference is granted by Denel Aeronautics, and it is subsequently shown to the satisfaction of Denel Aeronautics that such statement was false, Denel Aeronautics may, in addition to any other remedy it may have -

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24.1.1 Summarily cancel the Purchase Order and recover from the Supplier any costs, losses or damages incurred or suffered by Denel Aeronautics as a result of the award of the Purchase Order to the Supplier; or

24.1.2 Allow the Supplier to proceed with the Purchase Order and recover from the Supplier as pre-estimated damages an amount calculated to be fair compensation to Denel Aeronautics. The compensation and penalty, if applicable, may be deducted from the Price.

25 APPROVAL OF SUBCONTRACTORS

25.1 The Supplier shall timeously and in writing submit to Denel Aeronautics for its approval the names of the proposed subcontractors, and the Supplier may not enter into any subcontract for the execution of the Purchase Order or any part thereof, or for the manufacture or supply of materials to be used in the execution of the Purchase Order beforehand.

25.2 If the Supplier is authorised to sub-contract all or part of their obligations to third parties, such sub-contracting shall be at its sole expense and under its sole responsibility. The Supplier shall inform all sub-contractors of the provisions of these Standard Terms and Conditions of Procurement as well as those of the Purchase Order, and shall provide them with all information regarding Denel Aeronautics' requirements, especially in respect of applicable safety rules. Denel Aeronautics reserves the right to refuse any of the Supplier's sub-contractors that are not compliant with these conditions.

25.3 The Supplier shall not be released from its liabilities or obligations under the Purchase Order by any arrangement whatsoever with its Subcontractors in the event of the latter breaching any of the provisions of the Purchase Order or of these Standard Terms and Conditions of Procurement.

25.4 The Supplier shall keep such records of its subcontractors and their capabilities and shall furnish such returns as may reasonably be required by Denel Aeronautics so as to ensure proper and accurate performance in the execution of the Purchase Order.

26 PROHIBITION OF EMPLOYMENT


The Supplier shall not, for the duration of the Purchase Order and for a period of 12 (twelve) months after completion thereof, employ any employee or former employee of Denel Aeronautics who is or was in any way involved with the Purchase Order.

27 BREACH OF CONTRACT AND DAMAGES

27.1 If, subject to the provisions of Clause 24

27.1.1 The time has expired within which the Purchase Order or any item thereof should have been completed; or

27.1.2 The Supplier refuses or fails to carry out the Purchase Order in accordance with Denel Aeronautics' instructions, or is not making such progress with the Purchase Order to ensure completion on the contractual


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delivery date, or in the event of any other failure or default of the Supplier, Denel Aeronautics may give notice in writing to the Supplier to remedy the failure or default and, should the Supplier fail to comply with the notice within 14 (fourteen) days after the date thereof; or

- 27.1.3 The Supplier goes into provisional or final sequestration/liquidation or is placed under business rescue; or
- 27.1.4 The Supplier goes into voluntary liquidation or, if he is an individual, who voluntarily surrenders his estate; or
- 27.1.5 The relationship of the Supplier is dissolved, in the case of a partnership; or
- 27.1.6 The Supplier makes an offer of compromise or composition to its creditors, or attempts to do so; or
- 27.1.7 The Supplier fails to take any steps to have a judgement set aside within 7 (seven) days after a judgement / sentence was passed against it; or
- 27.1.8 The Supplier permits the attachment of any of its assets and fails to uplift such attachment within 7 (seven) days after the date of attachment; or
- 27.1.9 The Supplier, where he is a natural person, no longer qualifies to be director of a company in terms of the provisions of the Companies Act, 71 of 2008; or should there be any change as regards:
 - The controlling shareholding in the Supplier, where the Supplier is a Company; or
 - the members, where the Supplier is a Close Corporation; or
 - Supplier's form of business;

27.2 Denel Aeronautics may

- 27.2.1 in any such event, without prejudice to any of its rights under the Purchase Order, allow the Supplier to proceed with the Purchase Order in whole or in part, or cancel the Purchase Order in whole or in part and without incurring any liability for resultant damages which the Supplier may suffer and Denel Aeronautics shall under no circumstances be responsible for direct, indirect, special, incidental or consequential damages or loss of profits arising from the cancellation or annulment of the Purchase Order or
- 27.2.2 Cancel the Purchase Order in whole or in part and direct the Supplier by notice in writing to suspend or discontinue work in connection with the Purchase Order in whole or in part on the day stated in the notice, and may itself execute or complete the Purchase Order or conclude a contract with any other person for the execution or completion of the Purchase Order or procure other Goods in substitution for those neglected to be manufactured or supplied or for those rejected, and Denel Aeronautics may recover from the Supplier the difference between the cost of such procured Goods and the Price indicated in the Purchase Order (if the latter is lower), as well as any other costs and expenses (including the cost of any additional transport) which Denel Aeronautics incurred or may incur upon the Supplier's default; or
- 27.2.3 Claim direct, indirect, special, consequential and incidental damages as

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may have been suffered by Denel Aeronautics as a result of the Supplier's failure or default; or

27.2.4 Where the Purchase Order calls for the delivery of spare parts lists, catalogues, technical manuals or any other documentation, withhold payment of any amount due to the Supplier until such lists, catalogues, manuals and other documents are delivered.

28 TERMINATION OF CONTRACT / PURCHASE ORDER

28.1 Denel Aeronautics reserves the right to cancel the Purchase Order by notice in writing without furnishing any reasons therefor, and in the event that the Supplier is not in default, Denel Aeronautics shall be liable only for payment in respect of:

28.1.1 Goods completed at the date of such notice at prices specified in the order;

28.1.2 Work in progress at prices to be agreed upon but such prices shall in no instance exceed a pro rata proportion of the cost of the items as specified in the Purchase Order;

28.1.3 Raw materials which have been ordered by the Supplier for this particular order, at ruling market prices, provided that such raw materials shall be delivered to Denel Aeronautics;

28.1.4 The reasonable cost of any special equipment such as jigs, tools and templates which cannot be utilised in the normal day to day working process carried out by the Supplier, provided that such equipment is delivered to Denel Aeronautics and only to the extent that the cost thereof has not already been paid for by Denel Aeronautics.

28.2 The termination period shall be stipulated in the notice by Denel Aeronautics.

28.3 Such written notice of termination shall be served on the Supplier by Denel Aeronautics and it shall specify the extent to which the Purchase Order is terminated as well as the notice date and period.

28.4 Upon receipt of such notice, the Supplier shall:

28.4.1 Immediately stop work on the Purchase Order to the extent specified;

28.4.2 Place no further Purchase Orders for materials, services or facilities affected by the notice;


28.4.3 Terminate all Purchase Orders and subcontracts to the required extent of the notice;

28.4.4 Take all reasonable action to limit any further or other expenses related to the work so terminated;

28.4.5 Continue work that has not been terminated;

28.4.6 Protect and preserve Denel Aeronautics' property relating to the Purchase Order and deliver it to Denel Aeronautics if so instructed.

29. DISPUTE RESOLUTION

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- 29.1 All disputes, differences or questions between the Parties to the Agreement with respect to any matter or thing arising out of or relating to the Agreement which cannot be resolved in good faith by means of direct negotiations and conciliation, within fifteen (15) days of such dispute arising, shall be resolved by mediation under the Rules of the Arbitration Foundation of Southern Africa (AFSA) (or its successor or body nominated in writing by it in its stead).
- 29.2 If mediation fails, the Parties must refer the dispute within fifteen (15) days for resolution by arbitration (including any appeal against the arbitrator's decision), the selected Arbitrator must be approved by both Denel Aeronautics and the Supplier. The arbitration shall be conducted in Pretoria, Republic of South Africa (or any other place as may be so agreed to by the Parties) under the then rules for expedited arbitration of AFSA. If Parties cannot agree on the arbitrator within ten (10) days after referral, the arbitrator shall be appointed by the Secretariat of AFSA.
- 29.3 The arbitration proceedings shall be conducted in the English language.
- 29.4 The agreement to arbitration shall not prevent a party from obtaining urgent interim relief by way of injunction, interdict or any other similar legal remedy that may be available from any court of competent jurisdiction, pending arbitration on grounds that such court would grant by way of interim relief.
- 29.5 The Parties agree that any arbitration award or outcome shall be binding to the Parties and shall without further process be made an order of any court of competent jurisdiction by both parties.
- 29.6 The provisions of this clause serve as an irrevocable consent by all the Parties to any of the proceedings in terms hereof and the Parties shall not be entitled to withdraw from the proceedings or to maintain that they are not bound by such provisions; and are divisible from the rest of this Agreement and shall remain in full force and effect, notwithstanding termination of this Agreement for any reason whatsoever.

30. INSURANCE


The Supplier shall take out and maintain in force all insurance policies necessary to cover its liability under these Standard Terms and Conditions of Procurement. The Supplier agrees to provide Denel Aeronautics with evidence of insurance pursuant to any Denel Aeronautics requirements regarding insurance coverage, and to comply with such requirements, including third party liability as well as liability towards Denel Aeronautics.

31. FRAUD & CORRUPTION

31.1. Should Denel Aeronautics conclude on reasonable grounds -

31.1.1 That the Supplier has promised or caused to be promised on its behalf, offered or given a bribe, commission, gift, loan, benefit or other consideration of whatever nature to an official, employee or any other person in the course of obtaining or executing the Purchase Order; or

31.1.2 That the Supplier has acted fraudulently or in bad faith in obtaining or executing any contract with Denel Aeronautics, any public body, company, firm or person, or has in the conduct of its business failed to observe statutory requirements, resulting in a criminal conviction; then Denel Aeronautics may (i) terminate the Purchase Order and recover from the

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Supplier the amount of any loss suffered by Denel Aeronautics resulting from such termination or (ii) recover in full from the Supplier any loss sustained by Denel Aeronautics in consequence of any breach of clause 23, whether or not the Purchase Order has been terminated.

31.2 Any potential conflict, such as employees of Denel Aeronautics having an interest, whether directly or through family members, in the Supplier's organization; or interests between the supplier and Denel Aeronautics, shall be declared in writing by the supplier prior to accepting a contract.

32 WAIVER OF RIGHTS AND RETENTION OF SECURITIES

32.1 Irrespective of the amount paid by Denel Aeronautics nor any extension of the completion date granted by Denel Aeronautics shall prejudice Denel Aeronautics' rights against the Supplier or absolve the Supplier of its obligations for the due execution of the Purchase Order, or be interpreted as approval of the Goods delivered; and no payment shall incur a liability for Denel Aeronautics to pay for alterations, amendments or additional work not ordered in writing by Denel Aeronautics, and such payment shall not absolve the Supplier of its obligations regarding the payment of damages, whether due, ascertained, liquidated or not.

32.2 Denel Aeronautics may retain any part of the securities and retention money held by it for as long as the Purchase Order is not completed to the satisfaction of Denel Aeronautics or for as long as any amount is owing to Denel Aeronautics by the Supplier.

33. COMPLIANCE WITH BBBEE REQUIREMENTS

33.1 Denel Aeronautics shall apply the provisions of the Broad Based Black Economic Empowerment Act, 53 of 2003 or as amended and its Codes of Good Practice in the procurement of Goods. As a general rule preference shall be given to local suppliers with a BBBEE level from 1 to 4. In addition to the BBBEE level company status, chances of success


will increase if Suppliers of products and Services have substantial Black and Black Female shareholding and the Employment Equity profile is aligned with the Economically Active Population of the relevant province or South Africa.

33.2 In order to improve Denel Aeronautics' spend on Black-owned and Black Women-owned Suppliers, Denel Aeronautics reserves the right to ring-fence or set aside certain categories of products and services for such companies.

33.3 Joint ventures between Black-owned and Black Women-Owned Suppliers and White –Owned established Suppliers shall be viewed favourably in instances where suitable Black-Owned and Black Women-Owned Suppliers are not available.

34. TAX REQUIREMENTS (National Treasury Instruction No. 3 of 2014/2015)

34.1 The Supplier acknowledges that it is contracting with a public entity listed in Schedule 2 of the Public Finance Management Act (PFMA), Act No.1 of 1999. In terms of the National Treasury Regulations (No.3 of 2014) relating thereto, any party


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conducting business with the state is required to be fully tax compliant

- 34.2 **National Treasury Instruction No. 3 of 2014/2015** prescribes the measures required by National Treasury for Schedule 2 & 3 listed entities to impose on ALL suppliers to ensure that persons (i.e. bidder, supplier, subcontractor) doing business with Denel Aeronautics, as a State Owned Company/Entity, are Tax compliant in terms of the attached Annexure A.
- 34.3 Failure of Supplier and Supplier's sub-contractor/s to be fully tax compliant at any time shall result in a material breach of this Agreement and Denel Aeronautics shall have the right to withhold payment until Supplier has fully complied with the tax compliance obligations imposed on the Supplier and sub-contractors. In addition, Denel Aeronautics shall have the option to immediately terminate this Agreement and claim for damages it has suffered as a result of the breach.

35. GENERAL

- 35.1 This document, annexures, appendices and the Purchase Order constitute the entire agreement between the Parties.
- 35.2 No variation, addition or agreed cancellation of these Standard Terms and Conditions of Procurement, including this clause shall be of any force or effect unless reduced to writing and signed by both parties and their duly authorised signatories.
- 35.3 These Standard Terms and Conditions of Procurement and the Purchase Order do not establish either Party as being the agent or legal representative of the other Party for any purposes whatsoever, without the first mentioned Party's written statement authorising the latter Party legally to act on behalf of the first mentioned Party to the extent of authorisation provided for therein. Neither Party is granted, unless otherwise specially authorised, any right or authority to assume or create any obligation or responsibility, express or implied, in and on behalf or in the name of the other Party, or to bind the other Party in any manner or form whatsoever.
- 35.4 These Standard Terms and Conditions of Procurement and the Purchase Order further do not confer any exclusive rights on any one Party and do not prohibit the Parties in any way whatsoever from conducting their normal business activities or from entering into any future agreements or arrangements with any third party.
- 35.5 Denel Aeronautics and the Supplier shall use the English language in which the Purchase Order was issued in all documents relating to or resulting from the Purchase Order. Documents in other languages shall be valid only if they are accompanied by a translation in the language of the Purchase Order certified as correct by a sworn translator. The party submitting a translation shall be responsible for any damages resulting from a mistake in such translation. Should the interpretation of the documents differ, the interpretation of the document in the original language shall take precedence over the translated document.
- 35.6 No relaxation or indulgence granted to the Supplier by Denel Aeronautics from time to time shall be deemed to be a waiver of Denel Aeronautics' rights in terms of the Purchase Order, nor shall any such relaxation or indulgence be deemed to be an innovation or waiver of the terms and conditions of the Purchase Order.
- 35.7 The Supplier shall not cede, assign or transfer a Purchase Order or any portion thereof or any rights arising therefrom, to any third party without the written consent of Denel Aeronautics first having been had and obtained thereto and which

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consent may be refused at the discretion of Denel Aeronautics and without furnishing any reasons therefor. Denel Aeronautics shall be entitled to assign the Purchase Order, or any rights under it, upon giving written notice to the Supplier.

35.8 These Standard Terms and Conditions of Procurement, or any terms or conditions incorporated in the Purchase Order, shall be governed by and interpreted in accordance with the laws of the RSA, and the Supplier shall conform to all statutory requirements of the government of the RSA with regard to such Goods. In particular, the Parties agree that due to the nature of the supply made under the Purchase Order, and to the extent as may be applicable, such supply is subject to international and domestic laws dealing with the types of products being supplied, including without limitation:

- 35.8.1 The National Conventional Arms Control Act (Act 41 of 2001);
- 35.8.2 The Regulation of Foreign Military Assistance Act (Act 15 of 1998);
- 35.8.3 Anti-Personnel Mines Prohibition Act (Act 36 of 2003);
- 35.8.4 Firearms Control Act (Act 60 of 2000);
- 35.8.5 Non-Proliferation of Weapons of Mass Destruction Act (Act 87 of 1993);

36 DOMICILIUM AND NOTICES

- 36.1 The Parties select the addresses stated in the Purchase Order as their respective *domicilia citandi et executandi*.
- 36.2 Where possible, the address shall indicate the individual from whom attention is required.
- 36.3 Any notice or communication required or permitted to be given in terms of these Standard Terms and Conditions of Procurement and the relevant Purchase Order shall be valid and effective only if in writing.
- 36.4 Any Party may by notice to the other Party change the physical address or its telefax number chosen as its *domicilium citandi et executandi* to another physical address or its postal address to another postal address, provided that the change shall become effective by the tenth (10th) business day from the receipt of the notice by the addressee.
- 36.5 Any notice to a Party shall be deemed to be valid if:
 - Delivered by hand to the addressee's address set out above, in which event it shall be deemed to have been received on the date of delivery; or
 - a. Sent by facsimile, in which event it shall be deemed to have been received on the date of transmission of the facsimile.

37 COMPLIANCE WITH LAWS

- 37.1 The Supplier, including its sub-contractors, represents and warrants that, as of the date of this Agreement and throughout its term, it is and it shall remain in compliance with all applicable laws statutes, rules, regulations, judgments, decrees, orders or permits applicable to its performance under this Agreement, including, but not limited to, those social, environmental, health and safety as well as privacy laws, applicable to its activities.