

# **Magellan Standard Terms and Conditions**

**Revision 004**

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## 1. Definitions

As used throughout these Standard Terms and Conditions of Purchase (hereinafter Terms and Conditions) and any other contract or purchase order referencing these Terms and Conditions, the following definitions apply unless the context requires otherwise:

“Air-Worthiness Authority” means a national authority of a country or its delegated representative with responsibility for the air-worthiness of the Goods and Services produced or provided under the Order;

“Customer(s)” means any of the ultimate owner, lessee or operator of the Goods and includes the purchaser of an end product incorporating the Goods and/or Services provided by the Supplier under the Order;

“Delivery Date” means the date of delivery for Goods and Services as specified in an Order and/or by the Magellan SMS.

“Goods” means goods, supplies, software, drawings, data, reports, manuals, other specified documentation, or items that are required to be delivered pursuant to, or in connection with, an Order. Where the context permits, the use of the term Goods shall include Services.

“Government” means the applicable agency of a nation with responsibility for the oversight of the Goods or Services produced or provided under the Order;

“Magellan” means any Magellan Aerospace entity issuing a purchase order which includes Magellan Aerospace, Middletown Inc., Magellan Aerospace, Bethel Inc., Magellan Aerospace, Winnipeg, Magellan Aerospace, Kitchener, Magellan Aerospace, New York Inc. Magellan Aerospace, Haverhill Inc., Magellan Aerospace, Mississauga, Magellan Aerospace Turbine Services, LLC, Magellan Aerospace, Glendale Inc., Magellan Aerospace, Haley, Magellan Aerospace (UK) Limited, Magellan Aerospace Limited, Magellan Aerospace Corporation and future companies added through acquisition, merger or otherwise.

“Non-Excusable Delay” means if the delay is not due to an Excusable Delay then the delay is a Non-Excusable Delay.

“Order” or “Purchase Order” or “purchase order” or “Contract” or “Agreement” (if the context so requires) means the authorized ordering mechanism placed by Magellan with Supplier for Goods or Services, including the Terms and Conditions set forth herein.

“Procurement Representative” means the individual designated by Magellan as being primarily responsible for interacting with the Supplier regarding the Order;

“Procurement Quality Representative” means the individual designated by Magellan as being primarily responsible for interacting with the Supplier regarding the Quality aspects of the Order;

“Regulators” means any representative of a Government sanctioned organization or agency or its delegated representative with responsibility for enforcement of regulations and surveillance of Goods or Services provided under the Order;

“Seller” or “Supplier” means the contracting party with whom the Order is placed.

“SMS” means the Magellan’s Supplier Management System, which interacts with Magellan’s planning packages (Cincom, Great Plains and eFACS etc) which manage certain Orders with the Supplier to communicate, modify and exchange data with these planning packages for Order Management, Performance Monitoring and Inventory Control and other management tools.

“Services” means any effort performed by Supplier necessary or incidental to the delivery of Goods, including design, engineering, installation, repair and maintenance. The term “Services” shall also include any effort required by an Order.

“Specifications” means all requirements with which Goods and Services and performance hereunder must comply, including, without limitation, Magellan quality documents, drawings, instructions and standards, on a Magellan web site or elsewhere, as such requirements are specified and/or referenced in Orders, as such requirements are modified from time to time by Magellan.

## 2. Acceptance

2.1 Any Order issued by Magellan to any Supplier ("Supplier") is an offer by Magellan, which becomes binding on the terms contained therein and herein when it is accepted by Supplier. Supplier will be deemed to have accepted such offer on Magellan's terms if Supplier commences working on the Goods or providing the Services, or ships the Goods, which are the subject of the Order, or if Supplier issues a written Order acknowledgement. Any acceptance by Supplier of an Order is limited to acceptance of the express terms of the Order, specified Magellan Purchase Order Requirements or other documents incorporated in the Order by reference, and these Terms and Conditions.

2.2 Any attempt by Supplier to alter the terms offered by Magellan, or to propose additional or different terms, will be considered invalid and rejected by Magellan unless Magellan specifically accepts in writing such alterations. The altered, additional or different terms proposed by Supplier and deemed rejected by Magellan hereby will be considered a material alteration of Magellan's offer, and Magellan's offer will be deemed accepted by Supplier without such altered, different or additional terms.

2.3 If any Order issued by Magellan to Supplier is deemed to be an acceptance of a prior offer by Supplier, Magellan's acceptance of such prior offer will be deemed limited to the Terms and Conditions contained herein and in the Order(s) issued by Magellan. In such cases, any other terms deemed to be part of Supplier's offer will be deemed material and rejected by Magellan; but such rejection by Magellan will not be deemed to operate as a rejection of Supplier's offer unless the rejected terms are those of price or quantity.

### 3. Order Management

3.1 Magellan shall only accept responsibility for Order(s) for Goods and/or Services issued on Magellan's official Order Form by the duly authorized designated Magellan Procurement Representative. Any alterations to an order will only be recognized if confirmed in writing by the duly authorized designated Magellan Procurement Representative and agreed by the Supplier in writing.

3.2 Magellan shall provide Supplier with forecasts for the requirements for the Goods and/or Services to assist Supplier in planning. The Supplier agrees to make an effort to substantially reduce its leadtime for the Goods and/or Services during the period of the Order in accordance with the targets agreed with Magellan. These forecasts are for planning purposes only and do not create an obligation on Magellan's part. Magellan makes use of "Blanket Orders" which contain a firm order quantity and a forecast. Magellan will only be obligated for the firm quantity on a Blanket Order.

### 4. Specifications

4.1 Supplier shall comply with all Specifications.

### 5. Delivery, Shipping and Packaging.

5.1 Supplier will deliver the Goods in the quantities and on the date(s) specified on the Order or the Order schedule releases. Unless otherwise directed, all Goods shipped in one day from and to a single location must be consolidated on one bill of lading or air waybill, as appropriate. Supplier shall follow Magellan routing instructions and failure to do so may result in debit applied to the Supplier's account of the total shipping charges. Supplier will not insure shipments for transportation unless the Order has specific insurance requirements for the insurance of the shipment during transportation.

5.2 If the delivery schedule is endangered for any reason other than Magellan's fault then Supplier will, at its expense, deliver Goods by the most expeditious shipping method. Magellan reserves the right to reject, at no expense to Magellan, all or any part of any delivery that varies from the quantity authorized by Magellan for shipment. Supplier will not make any substitutions without Magellan's prior written approval. All items will be packaged according to Magellan's instructions or, if none, as a minimum in accordance with D 3951 (current version) standard practice for commercial packaging unless otherwise stated in the Order in a manner sufficient to ensure receipt in an undamaged condition. . All wood packaging/pallets/crates shall be in accordance with ISPM-15 and Supplier will not use packaging material made up of styro foam (peanuts, popcorn). Magellan will not be liable for any discharge, spill or other environmental incident (including clean-up costs) involving any Goods shipped under the Order until received by Magellan. All containers will be properly marked for identification as instructed on Magellan's Order and contain a packing slip that details, at a minimum, the Magellan Order number(s), product part number, detailed product description, total number of boxes in shipment, quantity of product shipped, the applicable

export classification and/or export license number and final delivery address. Goods shipped in advance of Magellan's delivery schedule may be returned at Supplier's expense. For domestic shipments, if requested by Magellan, and for all international shipments, Supplier will give written notice of shipment to Magellan when the Goods are delivered to a carrier for transportation. The Order number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing sheets, bills of lading and air waybills. Supplier to follow the Order's routing instructions; failure to do so may result in a charge back to the Supplier of 100% of the transportation costs for those shipments based on a delivery at origin.

- 5.3 All Goods, unless specifically exempted by the destination country's governing authorities, must be marked with the country of origin (manufacture) of the Goods in a conspicuous place as legibly, indelibly, and permanently as the nature of the article or container permits.
- 5.4 Supplier will provide Magellan with (a) the Harmonized Tariff Schedule number, country of origin information or certificates, manufacturer's affidavits, applicable free trade agreement ("FTA") certificates, and any other documents or information Magellan may require to comply with international trade regulations or to lawfully minimize duties, taxes, and fees, and (b) FTA certificates for all Goods that qualify under one or more FTAs. Supplier will provide Magellan all documents, records, and other supporting information necessary to substantiate the Goods' qualification under an FTA. Supplier will exert reasonable efforts to qualify the Goods under FTAs. (c). For Goods purchased FCA (Incoterms 2010) origin, Seller shall not insure or declare a value except when transportation rates are based on "released value". Within one business day after Supplier delivers the Goods to the carrier, Supplier will send Magellan a complete set of shipping documents including the commercial invoice, packing list, and air waybill, or three original parts of the combined through-bill of lading, clean without notation, necessary to release the Goods to Magellan's custody.
- 5.5 Notwithstanding Section 19 of these Terms and Conditions, Magellan may revise the delivery schedule and/or firing order without additional cost or change to the unit price stated in the applicable Order if (a) the delivery date of the Product under such Order is on or prior to the end date of this Order, if applicable, and (b) Magellan provides Supplier with written notice of such changes. Upon receipt of written notice of the change, Supplier shall make its best effort to implement the change as soon as possible, but in no event shall the change be implemented later than three (3) months after notification of schedule acceleration or one (1) month after notification of a schedule deceleration.

## 6. Pricing

- 6.1 Supplier will furnish the Goods at the prices stated on the face of the Order. Unless otherwise provided on the face of the Order, the prices include all packaging and freight to the specified delivery point; applicable taxes and other government charges including, but not limited to, all sales, use, or excise taxes; and all customs duties, fees, or charges.



6.2 All prices indicated in the Order(s) include all applicable taxes, impositions including but not limited to import and export duties and other similar charges, unless specifically indicated otherwise in such Order.

## 7. Invoicing and Payment Terms

7.1 All invoices are to be sent to Magellan at the address stated in the Order. In order to be considered for payment, each invoice must:

7.1.1 Show the relevant Magellan Order number;

7.1.2 Itemize any taxes to be paid by Magellan;

7.1.3 Contain line item number from the Magellan Order, description, unit price, quantity and extended price, if any;

7.1.4 Contain the name of the person requesting the material or service, if requested by Magellan;

7.1.5 Contain any other special notes as required by the Order.

7.2 Failure to comply with invoice requirements outlined herein may result in a delay in payment by Magellan until such a time that Supplier has remedied such non-compliance.

7.3 Magellan may offset against any amounts due under Supplier's invoices: (a) any damages resulting from Supplier's default under or breach of any contract (including any Order and these Terms and Conditions); (b) any amount owing from Supplier to Magellan; or (c) any adjustment for shortage or rejection and any costs occasioned thereby. In the event that Magellan becomes aware of potential violation of any governmental law, regulation or order or contractual obligation by Supplier in relation to its performance hereunder, Magellan may withhold, without liability or interest, any payment due hereunder associated with matters relating to such potential violation, pending investigation and resolution of such potential violation.

7.4 Payment Terms. Unless otherwise provided under the applicable Order or written agreement between Magellan and Supplier, payment terms shall be net ninety (90) calendar days. The term of any payment provided for in the Order, and all discounts related thereto, shall be calculated from (i) the date items are received at Magellan's location through the receiving inspection process, (ii) the date the items are scheduled to be received, or (iii) the date an acceptable invoice is received, whichever is later.

7.5 If, in its discretion, Magellan accepts any shipment ahead of schedule, Magellan may make payments therefore on the basis of the scheduled Delivery Date. The date for the calculation of Magellan's entitlement to take a discount under any Supplier invoice will be the date materials acceptable to Magellan are delivered, or the date an acceptable invoice is received, whichever is the later.

## 8. Offset

8.1 Magellan may use all or any part of the value of the Order, including the value of any subcontracts placed by the Supplier for the Order, for satisfying international offset obligations of Magellan, Magellan's Affiliates or Customers, or any entity that Magellan transfers such value to. Supplier may use the offset credit generated by the Order or the subcontracting of the Order only upon Magellan's written approval.

8.2 Upon Magellan's request the Supplier shall (i) report all subcontract sources utilized in the fulfillment of this Order, including the name and location of each such source, amounts paid and committed thereto and identification of the Goods or Services procured, and (ii) require its subcontractors, including those at all lower tiers, to maintain records of the above information.

## 9. Notice of Delay

9.1 Whenever anything delays or threatens to delay the timely performance of an Order, Supplier must immediately notify Magellan in writing of all relevant information with respect to such delay.

## 10. Excusable Delay (Force Majeure)

10.1 If delivery of any Goods is delayed by unforeseeable circumstances totally beyond the control and without the fault or negligence of Supplier or of its suppliers or subcontractors (any such delay being hereinafter referred to as "Excusable Delay"), the delivery of such Goods shall be extended for a period to be determined by Magellan after an assessment by Magellan of alternative work methods. Excusable Delays may include, but are not limited to, acts of God, war, terrorist acts, riots, acts of government, fires, floods, epidemics, quarantine restrictions, freight embargoes, strikes or unusually severe weather, but shall exclude Supplier's noncompliance with any legal requirement as required by Section 36 "Compliance with Laws and Integrity; Certifications". However, the above notwithstanding, Magellan expects Supplier to continue production, recover lost time and support all schedules as established under any Order. Therefore, it is understood and agreed that (1) delays of less than two days duration shall not be considered to be Excusable Delays unless such delays shall occur within thirty (30) days preceding the scheduled Delivery Date of any Goods and (2) if delay in delivery of any Goods is caused by the failure to perform of any of Supplier's subcontractors or suppliers, such delay shall not be considered an Excusable Delay unless the supplies or services to be provided by such subcontractor or supplier are not obtainable from other sources in sufficient time to permit Supplier to meet the applicable delivery schedules. If delivery of any Goods is delayed by any Excusable Delay for more than two (2) months, Magellan may, without any additional extension, cancel all or part of any Order with respect to the delayed Goods or Services, and exercise any of its remedies in accordance with Section 27.2, or as otherwise provided in the Order or these Terms and Conditions, provided however, that Magellan shall not be entitled to monetary damages or specific performance to the extent any Supplier's breach is the result of an Excusable Delay. Correspondingly, Magellan shall be excused for

failure or delay in performance herein due to any cause beyond its control, including any cause attributable to Magellan's Customers.

## 11. Taxes

11.1 Supplier shall be liable for and pay all taxes, duties or similar charges of any nature in connection with the Goods and or Services provided under this Order (unless otherwise agreed to by the Magellan in writing). It further is understood and agreed that Magellan may have an obligation to withhold and to remit withholding tax on goods and or services provided in accordance with applicable tax rules and regulations and that Magellan shall not under any circumstances be liable for reimbursing the Supplier in respect of any tax withheld and remitted to the applicable tax authorities

## 12. Delivery Term and Title

12.1 Unless otherwise stated on the Order, the point of delivery is based on FCA (INCOTERMS 2010) Supplier's location. Title to the Goods shall pass to Magellan on the earlier to occur of (i) when payment or partial payment is made, regardless of the date of delivery; and (ii) upon delivery of the Goods to Magellan's premises if payment has not been made. The foregoing does not relieve the Supplier for its responsibilities or obligations identified elsewhere in these Terms and Conditions or for hidden damages discovered after acceptance of the Goods.

## 13. Quality

Magellan Aerospace suppliers shall meet the requirements specified in AS/EN/SJAC 9100 and the [Magellan Aerospace Supplier Quality Requirements Manual \(SQRM\)](#). The Magellan SQRM document may be supplemented by divisional requirements as specified by divisional appendices.

## 14. Inspection, Acceptance and Rejection

14.1 Supplier shall inspect or otherwise verify that all Goods or Services, including those components procured from or furnished by subcontractors or suppliers or Magellan, comply with the requirements of the Order prior to shipment to Magellan. Supplier shall be responsible for all tests and inspections of the Goods during receiving, manufacture and Supplier's final inspection. Supplier agrees to furnish copies of test and/or control data upon request from Magellan's Procurement Representative or as required on the Order.

14.1.1 Supplier shall provide written notification to Magellan within one (1) day when a nonconformance is determined to exist, or is suspected to exist, on Goods already delivered to Magellan under any Order. The Supplier shall provide the following information:

- A. Affected process or Goods number and name
- B. Description of the problem (i.e., what it is and what it should be);

- C. Quantity and dates delivered
- D. Suspect/affected serial number(s) or date codes or other identification of the Goods, when applicable.

The Supplier shall notify the Magellan Procurement Representative and the Magellan Procurement Quality Assurance Representative for the Magellan location where the Goods were delivered.

If the nonconforming condition has been previously identified by Magellan, using a Nonconformance Record or other equivalent means and requesting a corrective action response, the Supplier, in a timely manner, shall notify the Magellan investigator identified on the corrective action request that additional Goods are affected.

- 14.1.2 Supplier shall provide with all shipments the following evidence of acceptance by its quality assurance department: (a) certified physical and metallurgical or mechanical test reports where required by controlling specifications, or (b) a signed, dated statement on the packing sheet or other document as mutually agreed to in writing, certifying that its quality assurance department has inspected the Goods or Services and they adhere to all applicable Specifications.

- 14.2 Magellan will accept the Goods or Services or give Supplier notice of rejection or revocation of acceptance ("rejection" herein), notwithstanding any payment, prior test or inspection, or passage of title. No inspection, test delay or failure to inspect or test or failure to discover any defect or other nonconformance shall relieve Supplier of any obligations under any Order or impair any right or remedy of Magellan.

If Supplier delivers non-conforming Goods or Services, Magellan may at its option and at Supplier's expense (i) return the Goods for credit or refund; (ii) require Supplier to promptly correct or replace the Goods or Services; (iii) correct the Goods or Services; or, (iv) obtain replacement Goods or Services from another source. These remedies are in addition to any remedies Magellan may have at law or equity.

Supplier shall not redeliver corrected or rejected goods without disclosing the former rejection or requirement for correction. Supplier shall disclose any corrective action taken. Repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Procurement Representatives of Magellan may reasonably direct.

All costs and expenses and loss of value incurred as a result of or in connection with nonconformance and repair, replacement or other correction may be recovered from Supplier by equitable price reduction or credit against amounts that may be owed to Supplier under the Order and these Terms and Conditions or otherwise.

Acceptance of any Goods by Magellan following any repair or rework pursuant to this Section 14.2 shall not alter or affect the obligations of Supplier or the rights of Magellan under the Order and these Terms and Conditions.

- 14.3 Magellan's rights to perform inspections, surveillance and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control, flight safety, and configuration control shall extend to the Customers of Magellan including departments, agencies or instrumentalities of the Government organizations and to the any Air-Worthiness Authority and any successor agency or instrumentality of the Government organizations. Supplier shall cooperate with any such Government or Magellan directed inspection, surveillance, test or review without additional charge to Magellan. Nothing in the Order or these Terms and Conditions shall be interpreted to limit Government access to Supplier's facilities pursuant to law or regulation.
- 14.4 Where Supplier is located in or subcontracts with a supplier or subcontractor located in a country which does not have a bilateral airworthiness agreement with Canada, the United States or the United Kingdom, Supplier will obtain and maintain on file and require its affected supplier(s) or subcontractor(s) to obtain and maintain on file, subject to review by Magellan, or copies provided to Magellan upon request, a letter from the applicable government where the Goods or subcontracted element is to be manufactured stating that Magellan and the Government will be granted access to perform inspections, surveillance and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control, flight safety, and configuration control.
- 14.5 Supplier shall maintain, on file at Supplier's facility, Quality records traceable to the conformance of Goods/part numbers delivered to Magellan. Supplier shall make such records available to regulatory authorities and Magellan's authorized representatives. Supplier shall retain such records for a period of not less than (10) ten years from the date of shipment under each applicable Order for all Goods/part numbers unless otherwise specified on the Order. Supplier shall maintain all records related to the current first article inspection (FAI) for (10) ten years past final delivery of the last Goods covered by the FAI.

At the expiration of such period set forth above and prior to any disposal of records, Supplier will notify Magellan of records to be disposed of and Magellan reserves the right to request delivery of such records. In the event Magellan chooses to exercise this right, Supplier shall promptly deliver such records to Magellan at no additional cost on media agreed to by both parties.

- 14.6 At no additional cost to Magellan, Goods or Services or portions thereof, may be subject to inspection, surveillance and test at reasonable times and places, including Supplier's subcontractors' or suppliers' locations. Magellan will perform inspections, surveillance and tests so as not to unduly interfere with Supplier's performance under an Order or the Agreement. Supplier shall maintain an inspection system acceptable to Magellan for the Goods or Services purchased under any Order.

If Magellan performs an inspection or test on the premises of Supplier or its subcontractors or suppliers, Supplier shall furnish and require its subcontractors or suppliers to furnish, without additional charge, reasonable facilities and assistance for the safe and convenient performance of these duties.

Supplier's documentation accompanying the shipment containing inspected Goods or Services, or portions thereof must reflect evidence of this inspection.

## 15. Currency

15.1 The currency for all prices shall be specified on each Order. No adjustments on any prices shall be made for changes to or fluctuations in currency exchange unless otherwise stated on the Order.

## 16. Warranty

16.1 Supplier warrants to Magellan, its successors, assigns, Customers, and end users that, upon delivery, and during the entire Warranty Period specified below, all Goods furnished (including all replacement or corrected Goods or components that Supplier furnishes under this warranty) will (a) be free from defects in material, workmanship, and design, even if the design has been approved by Magellan, (b) conform to applicable drawings, designs, quality control plans, specifications and samples and other descriptions furnished or specified by Magellan, (c) be merchantable, (d) be fit for the intended purposes (to the extent the Goods are not of a detailed design furnished by Magellan) and operate as intended, (e) comply with all applicable national and local laws, (f) be free and clear of any and all liens, restrictions, reservations, security interests, or encumbrances, (g) not infringe any patent, published patent application, or other intellectual property rights of any third party existing as of the date of delivery, and (h) not utilize misappropriated third party trade secret information. Services will be performed in accordance with the highest standards in the industry.

16.2 The Warranty Period will be for a period of thirty-six (36) months from the date of delivery to the end user or such longer period of time as may have been accepted by Magellan from Magellan's Customer or the date on which any longer or broader government requirement covering the Goods ends. These warranties will survive any delivery, inspection, acceptance, or payment by Magellan for the entire Warranty Period. Claims for breach of warranty do not accrue until discovery of noncompliance, even if the Goods were previously inspected. The warranties provided are cumulative and in addition to any warranty provided by law or equity. Any applicable statute of limitations runs from the date of discovery. Goods that meet the preceding standards are collectively called "conforming Goods." If conforming Goods are not furnished within the time specified by Magellan then Magellan may, at its election and in addition to any other rights or remedies it may have at law or in equity, have the nonconforming Goods repaired, replaced, or corrected at Supplier's expense. Supplier is responsible for the costs of repairing, replacing or correcting nonconforming Goods, and for all related costs, expenses and damages including, but not limited to, the costs of removal, disassembly, failure analysis, fault isolation, reinstallation, re-inspection, and retrofit of the

nonconforming Goods or of Magellan's affected end-product; all freight charges; all Magellan's customer charges; and all corrective action costs (i.e., costs of additional inspection or quality-control systems). Unless set off by Magellan, Supplier will reimburse Magellan for all such costs upon receipt of Magellan's invoice.

## 17. Liquidated Damages

### 17.1 Delay in Delivery; Magellan's Rights

17.1.1 In the event of a delay in delivery, other than for an Excusable Delay, and in addition to and without prejudice to any other rights the Magellan may have at law and/or under these Terms and Conditions (as described in under Section 27 of Terms and Conditions) Magellan reserves the right to the following;

(a) in the case of Goods:

(i) claim as liquidated damages: one percent (1%) of the price of the Goods delivered late, for each day of delay in the delivery commencing on the day following the Delivery Date for a maximum of twenty (20) Business Days. In the event that the delay extends beyond a total of twenty (20) Business Days following the due date, then Magellan shall be entitled to claim the actual damages incurred solely as a result of such delay.; and

(ii) invoice the above liquidated damages, which shall be paid by the Supplier within thirty (30) Days following the date of the invoice, or to set off against any payment outstanding or due to the Supplier at Magellan's discretion; and

(iii) instruct the Supplier to send the Goods by other means of transportation and/or to a destination other than the one specified in the Order, at the Supplier's expense; and/or

(iv) make all necessary arrangements for the collection of the Goods, at the Supplier's expense; and

(b) in the case of Services:

(i) claim as liquidated damages one percent (1 %) of the price of the Service, for each day of delay in the performance of the Service or delivery of the deliverable due under the Service commencing on the day following the due date of performance of such Service or delivery of such deliverable for a maximum of twenty (20) Business Days. In the event that the Non-Excusable Delay extends beyond a total of twenty (20) Business Days following the due date, then Magellan shall be entitled to claim the actual damages incurred solely as a result of such Non-Excusable Delay.; and

(ii) invoice the above liquidated damages which shall be paid by the Supplier within thirty (30) days following the date of the invoice, or may be set off against any payment outstanding or due to the Supplier at the Magellan's discretion; and

The right of Magellan to claim liquidated damages and other damages is in addition to and without prejudice to any rights the Magellan may have at law and/or under these Terms and Conditions and the relevant Order, and is in addition to the right of the Magellan to terminate pursuant to Section 27.

17.2 Liquidated Damages for Concessions

17.2.1 Administrative Costs

For every occurrence of the following incidents caused by Supplier, Magellan may charge Seller liquidated damages in the stated amounts for the purpose of compensating Magellan’s internal administration efforts associated with such incident. For the avoidance of doubt, the payment of liquidated damages hereunder by Supplier shall not preclude Magellan from making any other claim for damages against Supplier.

Incident	Damages
Rejects at Magellan’s facilities	\$1,500 / rejection document
Authorization to ship non-conforming product	\$ 500 / submission
Penalties paid to Magellan’s Customers	\$ 500 + penalty from Customer

Liquidated damages shall be paid by Supplier at the end of the 30 day period after the date of the notice or may be deducted from payments outstanding from Magellan to Supplier at the end of such 30-day period.

18. Price: Most Favored Customer

18.1 Supplier warrants that the prices charged for the Goods delivered under this Purchase Order are the lowest prices charged by Supplier to any of its external customers for similar volumes of similar Goods. If Supplier charges any external customer a lower price for a similar volume of similar Goods, Supplier must notify Magellan and apply that price to all Goods ordered under the Order. If at any time before full performance of the Order Magellan notifies Supplier in writing that Magellan has received a written offer from another supplier for Goods similar to those to be provided under the Order at a price lower than the price set forth in the Order, Supplier must immediately meet the lower price for any undelivered Goods. If Supplier fails to meet the lower price Magellan, at its option, may terminate the balance of the Order without liability.

19. Changes

19.1 Magellan may, by written or electronic notification, direct changes in the drawings, designs, Specifications, method of shipment or packing, quantity, or place of delivery of the Goods; reschedule the Services; or require additional or diminished Services. Only authorized Magellan Procurement Representatives may issue changes to the Order. All Order changes



shall be acknowledged by the Supplier upon a) the date the Supplier returns the acknowledgment copy of the Order to Magellan or b) five calendar days from date Magellan issues the Order change to Supplier regardless of mechanism used to convey requirements change, whichever is earlier. If any change causes an increase or decrease in the cost of, or the time required for, performing this Order, an equitable adjustment will be made in the Order price, delivery dates or both, and this Order will be modified in writing or electronically accordingly. Any claim for adjustment under this provision may, at Magellan's option, be deemed to be waived unless asserted in writing (including the amount of the claim) and delivered to Magellan within 30 days from the date of the receipt by Supplier of the Magellan-directed change to the Order. If the cost of property made obsolete or excess as a result of a change is paid by Magellan, Magellan may prescribe the manner of disposition of the property. Notwithstanding any disagreement between the parties regarding the impact of a change, Supplier will proceed diligently with its performance under the Order pending resolution of the disagreement.

## 19.2 Design and Process Changes

19.2.1 Supplier will make no changes to the design, materials, manufacturing location, or processes specified in the Order or documents referenced in it, or if none, those in place when the Order is issued, without the advance written approval of Magellan's Procurement Representative. Changes to a process include, but are not limited to, changes to the production process, changes in manufacturing equipment, or changes between a manual and automated process. This requirement applies whether or not the change affects costs and regardless of the type of change, including product improvements.

## 20. Suspension of Work

20.1 At any time by written notice and at no cost, Magellan may require Supplier to stop all or any part of the work under the Order ("Stop Work Order"), for any period as Magellan requires. Immediately upon receipt of a Stop-Work Order, Supplier will comply with its terms. At any time during the stop-work period, Magellan may, in whole or in part, either cancel the Stop Work Order or terminate the work under the Termination section of these Terms and Conditions. To the extent the Stop Work Order is canceled or expires, Supplier must resume work.

## 21. Progress Reports

21.1 Supplier will submit progress reports and other charts and materials to provide complete visibility of planned program tasks and progress against such tasks, in any format or schedule requested by Magellan.

## 22. Proprietary Information and Confidentiality

22.1 Supplier will maintain the confidentiality of all information furnished by Magellan as confidential and will not disclose any such information to any other person, or use such

information for any purpose other than performing under the purchase order to which it relates. The preceding sentence applies, without limitation, to designs, inventions, software programs, source codes, materials, models, processes, drawings, specifications, data, reports and other technical or business information and the features of all parts, equipment, tools, gauges, patterns and processes disclosed to Supplier by Magellan; and, to information supplied in electronic form, including CAD/CAM and computer aided engineering data. Supplier will not sell any such information, and will deface or otherwise render unsuitable for use any such information of which Supplier disposes. Subject to the specific instructions of Magellan, upon fulfillment or termination of any purchase order, and as otherwise directed by Magellan, Supplier will at its own expense dispose of all information supplied by Magellan. Magellan or its representatives may at any time audit all pertinent books, records and files of Supplier in order to verify compliance with this section. Supplier will, in all of its contracts with its suppliers relating to any Magellan purchase order, include provisions, which secure for Magellan the rights and protections provided for by this section. Notwithstanding the foregoing, the term "Confidential Information" shall not include any information that is: (a) in the public domain through no fault of Supplier; or (b) independently developed by Supplier without breaching this Agreement or by parties who have not had, either directly or indirectly, access to or knowledge of the Confidential Information. The foregoing obligations are in addition to and not as a replacement for any obligations under any nondisclosure agreements in place between the parties.

22.2 Supplier will not, and will require its suppliers and subcontractors to not, advertise or publish the fact that Magellan has ordered Goods or Services from Supplier, or the terms or nature of such order. Supplier will not, and will cause its employees and other representatives to not, disclose such information in company periodicals, press releases, public lectures, theses, sale or other promotional literature, or otherwise, unless such disclosure has been approved by Magellan in writing.

## 23. Intellectual Property Rights

23.1 All intellectual property rights (including without limitation patents, utility models, design rights, copyrights, trademarks, rights in confidential Information including know-how, in each case whether registered or unregistered and including all applications or rights to apply for such rights) in any and all specifications, designs, drawings, notes, data, documentation, information and other intellectual property that:

(i) are supplied by or on behalf of Magellan to the Supplier; and/or

(ii) arise from the performance of work in pursuance of a purchase order; and/or

(iii) are included in the goods or services supplied by Supplier under any purchase order,

shall (in the case of (i) above) remain the property of Magellan and (in the case of (ii) and (iii) above) be considered as a work for hire and be deemed to be the property of Magellan, and the Supplier shall promptly take all necessary steps and do all necessary acts (at

Supplier's sole expense) to vest such intellectual property rights in Magellan. Supplier assigns all rights, title and interest to any such design and any such copyright to Magellan including all rights to registration, publication, rights to create derivative works and all other rights that are incident to ownership. In the event that any court holds such creative works not to be works for hire, Supplier agrees to assign such intellectual property rights to Magellan at Magellan's request in consideration of the price paid for goods or services hereunder.

23.2 Such intellectual property and intellectual property rights shall not be used by Supplier except to the extent required for the purposes of the purchase order, nor copied or communicated by Supplier to any other party, without the prior express written consent of Magellan.

23.3 All such specifications, designs, drawings, notes, data, documentation, information and other intellectual property referred to in (a) above shall be returned/provided (together with all copies thereof) to Magellan immediately upon request or in any event on completion or termination of the purchase order or upon termination of the Order.

23.4 The Supplier represents and warrants that the purchase, use, sale and/or other exercise of the Goods or Services by Magellan and/or its Customers will not infringe any intellectual property right(s), including without limitation any patent, utility model, design right, copyright, trade mark, right in confidential Information including know-how, in each case whether registered or unregistered, in existence or pending anywhere in the world at the date of delivery of the Goods or Services supplied.

#### 24. General Indemnification and Intellectual Property Indemnification

24.1 Supplier will, at its expense, defend and indemnify Magellan and its subsidiaries, affiliates, and agents, and their respective officers, directors, shareholders, and employees, and Magellan's Customers (collectively "Indemnitees") from and against any and all loss, cost, expense, damage, claim, demand, or liability, including reasonable attorney and professional fees and costs, and the cost of settlement, compromise, judgment, or verdict incurred by or demanded of an Indemnitee arising out of, resulting from or occurring in connection with Supplier's negligence, willful misconduct, or breach of the terms of the Order. In no event will Supplier enter into any settlement without Magellan's prior written consent, which will not be unreasonably withheld.

24.2 For Goods provided under the Order, Supplier will, at its expense, defend and indemnify Indemnitee from and against any and all loss, cost, expense, damage, claim, demand, or liability, including reasonable attorney and professional fees and costs, and the cost of settlement, compromise, judgment, or verdict incurred by or demanded from Indemnitee arising out of, resulting from, or occurring in connection with any alleged: (a) patent, copyright, or trademark infringement; (b) unlawful disclosure, use, or misappropriation of a trade secret; or (c) violation of any other third-party intellectual property right, and from expenses incurred by Indemnitee in defense of such suit, claim, or proceeding if Supplier

does not undertake the defense thereof. Supplier will have the right to conduct the defense of any such claim or action and, consistent with Indemnitee's rights hereunder, all negotiations for its settlement. But in no event will Supplier enter into any settlement without Magellan's prior written consent, which will not be unreasonably withheld. Indemnitee may participate in a defense or negotiations to protect its interests. If any injunction or restraining order is issued, Supplier will, at its expense, either obtain for Indemnitee the right to continue using and selling the Goods or replace or modify the Goods to make them non-infringing. Supplier shall also indemnify Magellan's Customers and agents for such infringement if and to the extent that Magellan has agreed to so indemnify them, but to no greater extent than Supplier has indemnified Magellan herein and under the same conditions as set forth herein.

## 25. Insurance

25.1 Supplier will maintain and carry insurance which includes, but is not limited to, commercial general liability (including product liability and for Services to be performed, completed operations liability) in a sum no less than \$5 million, if automobiles will be used in performance of the Order, automobile liability in a sum no less than \$1 million per occurrence combined single limit for bodily injury and property damage, Workers' Compensation insurance as required by any applicable law or regulation and in accordance with the laws of the state, territory or province having jurisdiction over Supplier's employees, and employer's liability in an amount of no less than \$1 million. If Goods will be used on or in connection with aircraft (including, but not limited to, missiles, spacecraft, launch vehicles, lighter-than-air vehicles, remotely piloted vehicles and ground support or control equipment used therewith), Supplier will maintain aviation products liability insurance, inclusive of grounding, contractual, and war liability coverage, in a sum no less than \$10 million. Supplier will also maintain "all risk" property, boiler and machinery insurance (covering all property at full replacement value). Such insurances will be maintained with insurers that have an AM Best rating of no less than A- or equivalent. Supplier will furnish certificates of insurance from its carrier(s), adding Magellan as an additional insured and loss payee on the foregoing coverage's, which will provide that such coverage will not be cancelled or changed without thirty (30) days advance written notification to Magellan from the carrier(s). Except where prohibited by law, Supplier will require its insurers to waive all rights of recovery or subrogation against Magellan's insurers, Magellan, its subsidiaries and affiliated companies, and its and their respective officers, directors, shareholders, employees, and agents. The amount of insurance carried in compliance with the above requirements is not to be construed as either a limitation on or satisfaction of the indemnification obligation in any Order issued by Magellan or these Terms and Conditions. Should Supplier's policy provide a limit of liability in excess of such amounts, Magellan and/or its customers shall have the right benefit the full extent of the coverage available.

25.2 Any self-insured retention, deductibles, and exclusions in coverage in the policies required under this Section 25 shall be assumed by, for the account of, and at the sole risk of

Supplier, which provides the insurance, and to the extent applicable shall be paid by the Supplier. In no event shall the liability of Supplier be limited to the extent of any of the minimum limits of insurance required herein.

25.3 Supplier assumes, and shall ensure that all subcontractors or suppliers thereof and their respective employees assume, the risk of loss or destruction of or damage to any property of such parties whether owned, hired, rented, borrowed, or otherwise. Supplier waives, and shall ensure that any subcontractor or supplier thereof and their respective employees waive, all rights of recovery against Magellan, its subsidiaries, and their respective directors, officers, employees, and agents for any such loss or destruction of or damage to any property of Supplier, any subcontractor or supplier, or their respective employees.

## 26. Cessation of Production

26.1 If production of the Goods called for under the Order is to be discontinued or suspended at any time within one year after final delivery of any Goods under this Purchase Order, Supplier must give Magellan at least 180 days prior written notice of the discontinuance or suspension. During the notice period Supplier must accept orders from Magellan for the Goods at the price and on the terms of the Order.

## 27. Termination for Default

27.1 Magellan may, by written notice, terminate the Order (which, for the avoidance of doubt, includes any Agreement or Contract) or any portion thereof, for default without any liability or obligation whatsoever to Supplier for the portion terminated, in the following circumstances: (i) Supplier fails to perform any obligation or comply with any condition hereunder, including a delivery obligation, with the exception of reasons of Excusable Delay as described in Section 10 herein, (ii) when Magellan has reasonable grounds for insecurity, and Supplier fails to provide adequate assurances of performance within ten (10) days following Magellan's demand therefore; or, (iii) should Supplier (a) become insolvent, (b) become unable to pay its debts as they come due, (c) make a general assignment for the benefit of creditors, (d) have a receiver appointed for the whole or any substantial part of its assets, or (e) become in any way the subject of a bankruptcy petition.

27.2 Magellan shall have no liability in relation to those Goods terminated for Supplier's default other than those conforming Goods which have been delivered in accordance with the Order requirements prior to the notice of Termination. Supplier shall be liable to Magellan for any and all expenses, costs, and damages including all re-procurement costs, requalification costs, and other non-recurring costs. Magellan may, at its sole discretion, re-schedule the Supplier's performance of any or all of the Delivery Dates for the Goods or Services; by written notice immediately cancel all or portion of any Order or Order(s) and Magellan shall not be required after such notice to accept the tender by the Supplier of any Goods or Services subject to the cancellation; rework or repair either by Magellan or its designee any Goods in accordance with Section 14.2 of these Terms and Conditions or as may otherwise be allowed under the Order or of these Terms and Conditions; and Magellan at all times retains its right to set off any amounts owing the Supplier regardless of whether such amount or payment is then due and owing.

27.3 If the Order is entirely or partially terminated under this Section 27.3, Magellan, in addition to any other rights Magellan may have, may require Supplier, at no charge to Magellan, to: (i) deliver to Magellan all information, data, know-how, including proprietary that is related to the manufacture of the Goods and utilized by Supplier in performing the Order; (ii) deliver the tooling and test equipment necessary to make or have made the Goods and provide technical and transition assistance; and (iii) provide to Magellan a worldwide, non-exclusive, paid-up, irrevocable, license, with the right to grant sublicenses, to Supplier's information, data, know-how, including proprietary that is related to the manufacture of the Goods to the extent necessary, to enable Magellan to make, have made, use, sell and license the Goods.

27.4 If, after notice of termination under this Section 27.4, it is determined that Supplier was not in default, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience, Section 28 herein. In such case, Supplier shall not be entitled to any remedy other than as provided for in Section 28.

## 28. Termination for Convenience

28.1 Magellan may, at any time, terminate all or part of the Order (which, for the avoidance of doubt, includes the Agreement), for its convenience upon written notice to Supplier.

28.2 Upon termination, in accordance with Magellan's written direction, Supplier will immediately: (i) cease work and place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Order; (ii) prepare and submit to Magellan an itemization of all completed and partially completed Goods and/or Services; (iii) deliver to Magellan any and all Goods completed up to the date of termination at the pre-termination Order price; and (iv) if requested by Magellan, deliver any work-in-process.

28.3 In the event Magellan terminates for its convenience after performance has commenced, Magellan will compensate and pay Supplier only for the actual and reasonable work-in-process costs (as described in 28.2 (iii) and (iv) above) plus mark ups and reasonable profit on such work-in-process costs, including costs previously identified and agreed to be funded by Magellan as non-recurring costs, incurred by Supplier on Goods required to be delivered within the Lead Time period, calculated from Magellan's issuance of the notice of termination. If the Order does not specify Lead Time, Lead Time shall be the reasonable average lead time for the Goods in accordance with Magellan data. Supplier shall use reasonable efforts to mitigate its own and Magellan's liability under this Section 28.3. In order to receive compensation, Supplier's termination claim must be submitted within sixty (60) days from the effective date of the termination. Unless otherwise agreed, the Parties shall meet within thirty (30) days of Supplier's submission of a compliant termination claim to establish timing for processing and payment of the claim.

28.4 Magellan shall not be liable to Supplier for costs or damages other than as described above, and in no event for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the price allocated to the portion of the Order terminated.

## 29. Tooling and Material

29.1 Title to and the right of immediate possession of all tools, dies, patterns, software, numerically controlled media and programs, manufacturing programs, replacements and materials used by Supplier in manufacturing Goods under an Order ("Special Tooling and Materials") will be and remain with Magellan (or Magellan's customer if applicable). All Special Tooling and Materials will not be used in the production of larger quantities than those specified by Magellan in an Order. Upon completion of any relevant Order, all Special Tooling and Materials will be delivered to Magellan or disposed of by Supplier as Magellan shall direct. All Special Tooling and Materials will be segregated by Supplier at Supplier's plant and clearly marked as belonging to Magellan and will be used solely in the performance of work ordered by Magellan, will be insured against loss by the Supplier, and will not be copied. Supplier assumes complete liability for all Special Tooling and Materials while in Supplier's possession. Supplier will reimburse Magellan for damage to Magellan's Special Tooling beyond normal wear and tear while in Supplier's possession. Magellan reserves the right to use at any time all Special Tooling and Materials. Supplier will be responsible to Magellan for any and all consigned Materials. Supplier will communicate to Magellan, in such manner and such times as Magellan directs, any and all instances wherein Supplier fails to yield prescribed requirements from Magellan's Material. Upon completion of specific Order requirements, Supplier will furnish to Magellan any and all residual Materials and an accounting of any and all deviations from the prescribed Order requirements. At Magellan's direction, Supplier will at its cost return to Magellan any "off cut" material. If any Goods fabricated by Supplier from Material furnished by Magellan is defective, or any furnished Material is damaged while in Supplier's possession, Supplier will reimburse Magellan to the full extent of its damages.

## 30. Magellan-Furnished and Magellan-Funded Items

30.1 All material, including information, required to be furnished to Supplier under the Order ("Magellan Furnished Items") shall be delivered as specified in the Order, or, if not specified, in sufficient time to enable Supplier's timely performance. Magellan shall have no liability to Supplier for any delays or failures in the delivery of Magellan Furnished Items unless Magellan does not fulfill this obligation. If Magellan Furnished Items are not delivered to Supplier in sufficient time to enable Supplier to meet Delivery Dates, Supplier may notify Magellan of the delay and shall be entitled to an extension of such schedule equal to the period of the delay. Such adjustment shall be Supplier's sole remedy.

30.2 Title to all tooling, test equipment, and material identified as a separate line item under this or any previous Orders, or referred to in any agreement between Magellan and Supplier, and fabricated or acquired by Supplier ("Magellan Funded Items") shall vest in Magellan. For greater certainty and notwithstanding anything to the contrary, the Supplier shall at all

times be responsible for paying any tangible property, capital or any other tax that may be assessed or otherwise levied in respect of the tooling owned by Magellan that is situated on the Supplier's premises.

- 30.3 Magellan Furnished Items and Magellan Funded Items (collectively, "Magellan Items") shall be used only for the purposes of the Order. Supplier shall not use Magellan Items on any other order without Magellan's written permission. Supplier shall, at its own expense, (i) establish and follow a preventative maintenance calibration and repair program for, (ii) safely store (separated from other material where practicable), and (iii) maintain all Magellan Items in good, workable condition. The Supplier will be responsible to account for the quantities of Magellan Items consumed in the processing of Orders and should an amount of Magellan Items be consumed above the quantity agreed between the parties then the Supplier shall replace the Magellan Items at the Supplier's expense.
- 30.4 Unless otherwise agreed, Supplier shall account to Magellan for the proceeds from the sale of scrap generated during the performance of the Order by the processing of Magellan Items unless Supplier reimburses Magellan at Magellan's then-current prices for any Magellan Items used by Supplier
- 30.5 Title to any Magellan Items shall remain with Magellan. Magellan, in order to protect its interests, may require Supplier to execute documents that are related to the Magellan Items. Supplier shall plainly mark and adequately identify Magellan Items as being Magellan's property. Supplier shall not substitute any property for or modify Magellan-Furnished Items.
- 30.6 Upon Magellan's request, Supplier shall provide an annual written inventory of Magellan's Items, including certification of compliance with this provision and proof of adequate insurance covering full replacement cost of Magellan Items. Magellan shall have the right to physically audit and confirm the Supplier's holdings of Magellan Items at all times and upon reasonable notice to the Supplier.
- 30.7 Supplier shall, upon discovery, provide notification to Magellan if any Magellan Items are lost, damaged or destroyed. Upon completion or termination of the Order, or at any time upon Magellan's request, Supplier shall at Supplier's expense, return or dispose of Magellan Items in accordance with Magellan's instructions.
- 30.8 If Magellan Items are furnished to Supplier in connection with the production of Goods to be imported by Magellan into the United States, Supplier shall comply with all instructions from Magellan to document the value of such Magellan Items as "assists" in compliance with U.S. Customs and Border Protection requirements.
31. Barcode Marking and Shipping
- 31.1 For Orders from Magellan locations that have approved Supplier to utilize barcode labeling for shipping and packaging, Supplier shall mark and package such shipments in accordance



with the applicable barcode requirements for that location. Where approved and pursuant to applicable specifications, Supplier will utilize barcoding technology for part marking Goods.

### 32. Assignment and Subcontracting

32.1 Supplier will not assign the Order or any rights or obligations or subcontract all or any material aspect of the work called for without the prior written approval of Magellan. Any assignment without Magellan's written approval will be voidable at the option of Magellan. Magellan may assign the Order or Agreement or any of its rights or obligations to any of its subsidiaries or affiliates, or to any purchaser or successor to all or a portion of the assets of the business or product line to which the Order or Agreement relates without Supplier's consent and upon written notice to Supplier.

### 33. Relationship of the Parties/Independent Contractor

33.1 Nothing in the Order will be construed to place Supplier and Magellan in an agency, employment, franchise, joint venture, or partnership relationship. Neither party has the authority to obligate or bind the other in any manner, and nothing contained in these Terms and Conditions or an Order will give rise or is intended to give rise to rights of any kind to any third parties. Neither party will make any representation to the contrary. The parties agree that Supplier will perform its obligations under an Order as an independent contractor. Supplier retains the right to exercise full control of, supervision over and responsibility for Supplier's performance hereunder, including the employment, direction, compensation and discharge of Supplier's personnel, as well as compliance with workers' compensation, unemployment, disability insurance, social security, withholding and all other laws, rules, codes, regulations and ordinances governing such matters.

### 34. Examination of Records and Audit

34.1 Supplier shall maintain complete and accurate records showing the sales volume of all Goods or Services. Such records shall support all Services performed, allowances claimed and costs incurred by Supplier in the performance of each Order, including but not limited to those factors which comprise or affect direct labor hours, direct labor rates, material costs, burden rates and subcontracts. Such records and other data shall be capable of verification through audit and analysis by Magellan and be available to Magellan at Supplier's facility for Magellan's examination, reproduction, and audit at all reasonable times from the date of the applicable Order until three (3) years after final payment under such Order. Supplier shall provide assistance to interpret such data if requested by Magellan. Such examination shall provide Magellan with complete information regarding Supplier's performance for use in price negotiations with Supplier relating to existing or future orders for Goods or Services, including but not limited to negotiation of equitable adjustments for changes and termination/obsolescence claims pursuant to these Terms and Conditions. Magellan shall treat all information disclosed under this Section 34 as confidential, except as otherwise required by Government contracting regulation(s).

34.2 Supplier will maintain suitably detailed records as may be necessary to adequately reflect Supplier's compliance with the terms of the Order. Supplier will permit Magellan's auditors to have access at all reasonable times to Supplier's books and other pertinent records. Supplier will require each of its sub tier suppliers to do likewise with respect to their books and records. Supplier and each sub tier supplier will also furnish other information as may be needed by Magellan's representatives in auditing compliance.

34.3 Magellan may perform audits up to three years following completion of this Order. If, as a result of an audit, any invoice submitted by Supplier is found to be in error, an appropriate adjustment will be made to the invoice or the next succeeding invoice following the discovery of the error and will be paid promptly by Supplier or Magellan, as the case may be. Supplier will promptly correct any other Supplier deficiencies discovered as a result of the audit.

### 35. Financial Visibility

35.1 If requested, Supplier shall provide financial data, on a quarterly basis, or as requested to the Magellan Corporate Financial Office for credit and financial condition reviews. Said data shall include but not be limited to balance sheets, schedule of accounts payable and receivable, major lines of credit, creditors, income statements (profit and loss), cash flow statements, firm backlog, and headcount. Copies of such data are to be made available within 72 hours of any written request by Magellan's Corporate Financial Office. Magellan shall treat all such information as confidential.

35.2 Supplier shall maintain a process to evaluate and assess on an on-going basis the financial health of its subcontractor(s) and supplier(s) supporting an Order. Magellan Corporate Financial Office reserves to right to review and evaluate Supplier's process. Supplier will include provisions as part of its subcontracts that allow information to be shared with Magellan Corporate Financial Office and allow Magellan Corporate Financial Office to evaluate and assess the financial health of such subcontractors and suppliers directly. In addition, Supplier shall ensure that Magellan may disclose to Supplier any financial information received by Magellan Corporate Financial Office as part of this Section 35.2. No action by Magellan Corporate Financial Office shall relieve Supplier from its responsibilities under this Section 35.0 or any other obligation under these terms and Conditions.

### 36. Compliance with Laws, Integrity and Ethics; Certifications

36.1 Supplier shall be responsible for complying with all legal requirements, including, but not limited to the provisions of any statute, ordinance, rule, regulation, judgment, decree, order, permit, approval, license or registration applicable to its performance under an Order. Supplier shall notify Magellan of any aspect of Supplier's performance that is prohibited under any legal requirements, at the earliest opportunity, but in all events sufficiently in advance of Supplier's performance of such obligation, so as to identify and implement alternative methods of performance. Supplier shall notify Magellan in writing at the earliest possible opportunity of any aspect of its performance, which becomes subject to any additional legal requirement after the date of execution of this Agreement or which Supplier

reasonably believes will become subject to additional regulation during the term of this Agreement. Supplier agrees to indemnify and to hold harmless Magellan from any failure by Supplier to comply with any legal requirement.

36.2 In addition, Supplier shall comply with, as applicable, the United States Foreign Corrupt Practices Act (FCPA), the Canadian Corruption of Foreign Public Officials Act (CFPOA), the United Kingdom's Bribery Acts (BA) well as those local laws in the countries where the transactions associated with the any Order take place. The Supplier shall report to the Buyer, any charges filed against the Supplier, under these regulations.

36.3 Supplier shall at all times comply with Section 1502 of the Dodd-Frank Act ("Conflict Minerals Legislation"). For greater certainty, the Supplier shall make all reasonable efforts to ensure that any products that it supplies to Magellan that contain tin, tantalum, gold or tungsten are "DRC Conflict Free".

36.4 Supplier warrants that neither it nor any of its employees, agents or representatives have offered or given, or will offer or give any gratuities to Magellan's employees, agents or representatives for the purpose of securing any Order or securing favorable treatment under any Order.

36.5 Magellan is committed to conducting its business fairly, impartially, and in an ethical and proper manner. Magellan expectation is that Supplier will also conduct its business fairly, impartially and in an ethical and proper manner. Magellan further expects that Supplier will have (or will develop) and adhere to a code of ethical standards. If Supplier has cause to believe that Magellan or any employee or agent of Magellan has behaved improperly or unethically under this Agreement, Supplier shall report such conduct to the Magellan Vice-President Human Resources. Magellan will not use the failure to report improper or unethical behavior as a basis for claiming breach of contract by Supplier under this Agreement, however, Supplier is encouraged to exert reasonable efforts to report such behavior when warranted.

36.6 Supplier agrees upon request to supply all certifications and information reasonably requested by Magellan with respect to its obligations under these Terms and Conditions or an Order.

### 37. Compliance with Environmental, Health and Safety Laws; Hazardous Substances

37.1 Supplier will comply with all applicable national, federal, European Union, state/provincial and local environmental, health and safety laws, regulations or directives applicable to the Order.

37.2 Upon request, in form and substance satisfactory to enable Magellan to meet its compliance obligations with regard to Regulation (EC) No 1907/2006 ("REACH") or similar laws or regulations identified by Magellan, Supplier will provide Magellan with complete information regarding the chemical composition (substances, preparations, mixtures, alloys or goods) of any Goods supplied under this Purchase Order, including all safety information required

under REACH and information regarding the registration or pre-registration status of any Goods pursuant to REACH. Supplier agrees that it will include any Magellan “Identified Use” in its REACH registrations or applications for Authorization, unless Supplier notifies Magellan in writing that it rejects such Identified Use in order to protect human health or the environment and specifies the reason for such rejection. In such case Magellan shall have the right to terminate an Order without incurring any costs or damages.

37.3 Additionally, unless Supplier informs Magellan in writing and obtains Magellan’s prior written consent, no Goods will contain any of the substances identified in Article 4.1 of the European Parliament Directive 2002/95/EC (RoHS Directive) as that Directive is updated from time to time, or similar laws or regulations identified by Magellan, restricting the use of hazardous materials in other jurisdictions.

37.4 Goods will comply with the restrictions set forth in the Montreal Protocol on ozone-depleting substances.

37.5 Supplier will be responsible for all costs and liabilities for or relating to the recycling of Goods pursuant to the most current version of European Parliament Directive 2002/96/EC (WEEE Directive) as such Directive is implemented in each country, or similar laws or regulations identified by Magellan.

37.6 Supplier is required to provide a Material Safety Data Sheet (MSDS) if a product is hazardous as defined in OSHA 29 CFR 1910.1200. All MSDS will be provided to the appropriate Magellan site as stated in the Order. This provision applies to all orders for chemical products and raw stocks/substrates. Although this provision includes orders for hazardous materials and chemical substances, it is not restricted to such products and may include materials such as raw stocks, substrates, resins, and broad goods.

## 38. Export Compliance

38.1 Supplier will comply with all export and import laws and regulations of all countries involved in transactions associated with an Order, including but not limited to the Canadian Export Act, the Export Administration Regulations (EAR) of the United States Department of Commerce; the International Traffic in Arms Regulations (ITAR) of the United States Department of State; Sanctions of the Department of Treasury; or any other applicable laws or regulations of the United States (“Export Regulations”) where applicable. Supplier will first obtain the written consent of Magellan before submitting any request for authority to export or re-export any drawing, data, hardware, equipment or other item provided to Supplier by Magellan unless already authorized in an appropriate license.

## 39. Unauthorized Parts

39.1 A “Suspect Part” is a part in which there is an indication by visual inspection, testing, or other information that it may meet the definition of a Fraudulent Part or a Counterfeit Part. A “Fraudulent Part” is any part knowingly misrepresented as meeting required specifications. A “Counterfeit Part” is a part that has been represented, identified, or marked as genuine,

but has been confirmed to be a copy, imitation, or substitute that was created (a) without legal right to do so, and (b) with intent to mislead, deceive, or defraud. Suspect Parts, Fraudulent Parts, and Counterfeit Parts are referred to collectively as “Unauthorized Parts.”

39.2 Promptly upon Magellan discovering that Supplier has delivered to Magellan a Product that is or contains an Unauthorized Part (“Contaminated Product”), Magellan will impound such Contaminated Product and provide written notice to Supplier of such action.

39.3 Promptly upon Supplier discovering that Supplier has delivered to Magellan a Contaminated Product, Supplier will provide written notice to Magellan of same.

39.4 Promptly upon the occurrence of either clause 39.2 or clause 39.3 above, Supplier will, at Supplier’s sole cost and expense, replace such Contaminated Product with a Product that meets Magellan’s specifications.

39.5 Supplier shall indemnify Magellan from liability relating to the removal and replacement of Contaminated Products, including without limitation Magellan’s external and internal costs of removing Unauthorized Parts, of reinserting replacement parts, and of any testing necessitated by the reinstallation of Supplier’s goods after Unauthorized Parts have been exchanged.

39.6 When requested by Magellan, Supplier shall provide documentation that authenticates traceability of the applicable manufacturers utilized by Supplier to obtain all parts under this Agreement.

#### 40. Applicable Law, Jurisdiction and Venue

40.1 For all Magellan Orders issued by a Magellan division which identifies its principal place of business in a Canadian location, the following Applicable Law, Jurisdiction and Venue apply to those Orders:

THESE TERMS AND CONDITIONS, AND ANY ORDER ISSUED USING THESE TERMS AND CONDITIONS, WILL BE INTERPRETED, CONSTRUED AND ENFORCED IN ALL RESPECTS GOVERNED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF ONTARIO, and the federal laws therein, without reference to the choice of laws provision thereof. Services shall be deemed to be Goods for the purposes of this paragraph (i.e., the application of governing law). Magellan may, but is not obligated to, bring any action or claim relating to or arising out of the Order in the appropriate Toronto court, or arbitration forum, if arbitration is required by law or the Order, in the jurisdiction described above, and Supplier hereby irrevocably consents to personal jurisdiction and venue in any such court. Supplier hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that (a) Supplier is not personally subject to the jurisdiction of the above-named courts, (b) the suit, action or proceeding is brought in an inconvenient forum or (c) the venue of the suit, action or proceeding is improper.

Any action or claim by Supplier with respect hereto shall also be brought in the appropriate court in the jurisdiction described above, if Magellan so elects. Accordingly, Supplier shall give written notice to Magellan 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 Magellan, within thirty (30) days from receipt thereof, makes its election as aforesaid. If Magellan and Supplier mutually agree to participate in alternative dispute resolution, Supplier agrees that all alternative dispute resolution proceedings shall take place in Toronto, Ontario, Canada.

40.2 For all Magellan Orders issued by a Magellan division which identifies its principal place of business in a United States location the following Applicable Law, Jurisdiction and Venue applies to those Orders:

THESE TERMS AND CONDITIONS, AND ANY ORDER ISSUED USING THESE TERMS AND CONDITIONS, WILL BE INTERPRETED, CONSTRUED AND ENFORCED IN ALL RESPECTS GOVERNED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, and the federal laws therein, without reference to the choice of laws provision thereof. Services shall be deemed to be Goods for the purposes of this paragraph (i.e., the application of governing law). Magellan may, but is not obligated to, bring any action or claim relating to or arising out of the Order in the appropriate New Castle County, Delaware court, or arbitration forum, if arbitration is required by law or the Order, in the jurisdiction described above, and Supplier hereby irrevocably consents to personal jurisdiction and venue in any such court, hereby appointing the State of Delaware's Secretary of State or other applicable government authority as agent for receiving service of process. Supplier hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that (a) Supplier is not personally subject to the jurisdiction of the above-named courts, (b) the suit, action or proceeding is brought in an inconvenient forum or (c) the venue of the suit, action or proceeding is improper.

Any action or claim by Supplier with respect hereto shall also be brought in the appropriate court in the jurisdiction described above, if Magellan so elects. Accordingly, Supplier shall give written notice to Magellan 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 Magellan, within thirty (30) days from receipt thereof, makes its election as aforesaid. If Magellan and Supplier mutually agree to participate in alternative dispute resolution, Supplier agrees that all alternative dispute resolution proceedings shall take place in New Castle County, Delaware, USA

40.3 For all Orders issued by any Magellan division the following applies to those Orders:

40.3.1 These Terms and Conditions exclude the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods.

40.3.1.1 In the event of translation of these Terms and Conditions or associated Order into a language other than English, only the English text will have any legal significance.

#### 41. Order of Precedence

41.1 If there are any inconsistencies or conflicts in the provisions applicable to the Order, precedence shall be given in the following descending order: (i) the face sheet of the Order including the price, price adjustment terms, specifications, shipping, quality requirements, drawings, work statements, and modifications to the Order and/or these Terms and Conditions that specifically reference the Section being modified; (ii) terms of any Agreement under which the Order is issued (ex., Long Term Agreement Terms and Conditions); (iii) these Terms and Conditions; and (iv) the terms of any separate Product Support Agreement entered into by the Parties (v) the terms of a Non-Disclosure Agreement or similar proprietary information agreement between the parties.

41.2 If Supplier becomes aware of any ambiguities, issues, or discrepancies between the Order and any specification, design, or other technical requirement applicable to the Order, Supplier will immediately submit the matter to Magellan for resolution.

#### 42. Remedies

42.1 All Magellan remedies set forth in this Purchase Order are in addition to, and will in no way limit, any other rights and remedies that may be available to Magellan at law or in equity.

#### 43. Notices

43.1 All Notices relating to this Purchase Order must be in writing. Notices to the parties will be sent to their respective addresses appearing on the face of the Order. Notices must be delivered personally; or delivered by recognized overnight courier; or mailed certified first class mail, postage prepaid; or sent by facsimile transmission to the facsimile number provided by Magellan or Supplier respectively; or sent by electronic transmission (email) with proof of delivery. Any Notice will be deemed given on the date delivered if delivered personally; three business days after being placed in the mail as specified; or upon confirmation receipt that it was transmitted satisfactorily if transmitted by facsimile or electronic transmission.

#### 44. Publicity

44.1 Without Magellan's prior written approval, Supplier shall not, and shall require that its subcontractors or suppliers shall not, release any publicity, advertisement, news release or denial or confirmation of the same, regarding any Order or Goods or Services, or the program to which they may pertain. Supplier shall be liable to Magellan for any breach of such obligation by any subcontractor or supplier.

#### 45. Dispute Resolution

45.1 Except as provided below, prior to a Party initiating a formal legal proceeding relating to a dispute under an Order, that Party must provide the other with a written request for dispute resolution. Each Party shall, within five (5) calendar days after such written request is received, designate a representative who will be responsible for negotiating, in good faith, a resolution of the dispute. Should the representatives fail to reach agreement within thirty (30) calendar days of receipt of the request, vice presidents of each Party shall attempt to resolve the issue within sixty (60) calendar days of receipt of such written request.

45.2 Either Party may (i) resort to a formal legal proceeding for equitable relief at any time and (ii) institute litigation in order to avoid the expiration of any applicable limitations period or to preserve a superior position with respect to other creditors.

45.3 Each Party shall continue performing its obligations under the Order pending resolution of the dispute. The dispute resolution procedures set forth herein do not supersede, delay or otherwise affect any rights of termination that are expressly set forth in these Terms and Conditions.

#### 46. Waiver and Severability

46.1 The failure of either party to enforce at any time any of the provisions of the Order or these Terms and Conditions will not be construed to be a continuing waiver of any provisions hereunder, nor will any such failure prejudice the right of such party to take any action in the future to enforce any provisions hereunder.

46.2 If any provision of the Order or these Terms and Conditions is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, that provision will be severed from the Order or these Terms and Conditions; the remaining provisions will remain in full force and effect; and a similar legal, valid and enforceable provision will be substituted in lieu of the severed provision.

#### 47. Survival

47.1 All provisions of the Order and these Terms and Conditions which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Purchase Order including, but not limited to, those addressing the following subjects: Import/Customs Compliance, Price, Price: Most Favored Customer and Meet or Release, Invoicing and Payment, Set Off, Warranty, Cessation of Production, General Indemnification, Intellectual Property Indemnification, Insurance, Protection of Information, Audit, Applicable Law, Jurisdiction and Venue, Publicity, and Survival.

#### 48. Integration and Merger

48.1 These Terms and Conditions together with any long term agreement referencing these Terms and Conditions, any nondisclosure agreement executed by the parties, and Order



issued to Supplier, including attachments and documents incorporated herein or therein by reference, constitute the entire agreement between Magellan and Supplier, and supersede all prior representations, agreements, understandings, and communications between Magellan and Supplier. No amendment or modification of these Terms and Conditions, contract or Order will be binding upon either party unless it is set forth in a written instrument signed by authorized representatives of both Magellan and Supplier. The rights and remedies afforded to either party pursuant to any part or provision of these terms and conditions, any long term agreement or any Magellan Order are in addition to any other rights and remedies afforded by any other parts or provisions of these Terms and Conditions, any long term agreement, Order, by law, or otherwise.

#### 49. Headings and Captions

49.1 Headings and captions are for convenience of reference only and do not alter the meaning or interpretation of any provision of the Order or these Terms and Conditions.

#### 50. Supply Chain Security

50.1 Supplier will implement the Business Partner Criteria of any Supply Chain Security Program that the country of import for the Goods may adopt such as the U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) or the Canadian Partners in Protection (PIP) Program

50.2 The Supplier will install and implement security hardware , software, procedures and policies, "Information Security Systems", that will provide reasonable and effective information security. Supplier agrees to update such Information Security Systems as may be needed to address any deficiencies identified by the Supplier or Magellan. The Supplier will provide evidence to Magellan when requested to demonstrate its Information Security Systems for protecting information is adequate. Magellan reserves the right to physically audit the Supplier to confirm its Information Security Systems for the protection of information is adequate and the Supplier agrees to implement any remediation to its Information Security Systems as Magellan may reasonably require.

#### 51. Equal Employment Opportunity (EEO) Policy

Magellan Aerospace Limited is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the United States Department of Labor requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and the employment equity requirements as articulated under the Canadian Federal Contractors Program (FCP) at [http://www.labour.gc.ca/eng/standards\\_equity/eg/emp/fcp/](http://www.labour.gc.ca/eng/standards_equity/eg/emp/fcp/) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements

of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

#### 52. Government Flow Down of Terms

For orders issued under Prime Contracts with a government agency or subcontracts at any tier under government contracts, Magellan reserves the right to include the applicable government provisions and these shall be identified in the Magellan Order.