

Aviation Technical Services, Inc.

GENERAL TERMS AND CONDITIONS OF PURCHASE

Revision B, 21 April 2010

1. DEFINITIONS

- (a) "Buyer" means Aviation Technical Services, Inc, a Washington corporation ("ATS"), having its principal place of business at Everett, Washington.
- (b) "FAA" means the U.S. Federal Aviation Administration.
- (c) "Order" means any ATS ordering document which incorporates these General Terms and Conditions of Purchase and is placed with Seller by Buyer. All references to the "Order" shall be deemed to include these General Terms and Conditions of Purchase.
- (d) "Seller" means the supplier of products or services identified in the Order.
- (e) "CFR" means Code of Federal Regulations.

2. SPECIAL INSTRUCTIONS

(a) **INVOICES, PRICE AND PAYMENT.** Invoices shall be forwarded to the Buyer's Accounts Payable Department: 3100 112th St. SW, Everett, WA 98204. Taxes to be paid by Buyer must be itemized and separately stated as to type of tax (such as Washington State Sales Tax, etc.).

Payment of Seller's invoice may be offset for (i) any damages resulting from breach of contract under any contract between Buyer and Seller, (ii) any amount owing at any time from Seller to Buyer, or (iii) any adjustment for shortage or rejection and any costs occasioned thereby. Payment terms are net forty-five (45) days calculated from the date the Order is completed or the date an acceptable invoice is received, whichever is later.

Invoices will reflect the agreed-upon Order price. ATS reserves the right to limit payment to the Order price only.

Except as otherwise provided in the Order, the price(s) set forth herein include all applicable taxes and other similar charges.

(b) **SHIPPING; DELIVERY.** All shipping, packing, insurance, routing and delivery shall be in accordance with the Order, provided that unless specified otherwise in the Order, all goods shall be delivered F.O.B. to Buyer's loading dock at Buyer's principal place of business in Everett, Washington. Seller will comply with all shipping, packing and other requirements of Exhibit A hereto, which is incorporated herein by this reference. Time is of the essence in the performance of the Order.

(c) **HAZARDOUS SUBSTANCE INFORMATION.** Seller shall provide a completed Material Safety Data Sheet for each material containing hazardous substances as defined by OSHA 29 CFR 1910.1200.

(d) **TECHNICAL INFORMATION, LANGUAGE AND MEASUREMENT.** All notices and binding communications and/or reports, drawings and other technical information shall be in English and shall employ the units of measure customarily used by Buyer in the USA.

3. ACCEPTANCE. The Order constitutes Buyer's offer to Seller and becomes a binding contract on the terms set forth herein when it is accepted by Seller either by acknowledgment or beginning performance. The Order may be accepted only on the terms set forth herein, incorporated herein by reference, or set forth on any attachments hereto. Terms in Seller's acceptance in addition to or not identical with terms herein are hereby objected to and rejected by Buyer and will not become a part of the contract unless agreed to in writing by Buyer's authorized personnel. The Order may be revoked by Buyer at any time prior to acceptance.

4. CERTIFICATIONS. Unless otherwise agreed to, all aircraft-related products and services delivered to Buyer must be accompanied by a "Positive Serviceability Statement" that specifies compliance with applicable Federal Regulations or process specifications provided by an appropriately authorized representative of Seller. This statement must include certification that required inspections and tests when applicable were performed. This statement must completely identify material or items by lot number, production date, specification or drawing revision date, or values to which the item was inspected or produced. Unless otherwise agreed to, all aircraft related goods delivered to the Buyer must meet the requirements, with source documentation if applicable, of an approved part or acceptable part as defined by FAA Advisory Circular 20-62D. Seller will identify all manufacturer-recommended shelf life restrictions, including storage temperature and expiration data if applicable, on the goods themselves or on the related certification paperwork. For all aircraft-related services, Seller will allow for FAA inspection and observation of the service performed if Seller is not certified by the FAA.

5. GRATUITIES. Seller and its employees, agents and representatives shall not offer gratuities to any employee of Buyer. Failure of Seller to honor this commitment, may, at Buyer's option, result in termination of the Order in accordance with the default clause herein.

6. INSPECTION. Work performed under the Order is subject to inspection at Seller's facility or any of Seller's sub-tier suppliers' facilities as may be requested by representatives of Buyer, its customers, the FAA, or any government regulatory agency. Seller shall provide reasonable facilities for the safety and convenience of said representatives. Seller shall include the substance of this clause in all subcontracts issued hereunder.

Each item ordered will be subject to final inspection and acceptance by Buyer at its destination notwithstanding that title may have passed to Buyer, that Buyer may have made a prior payment or that Buyer, its customer or any government agency may have performed some type of source inspection. If at any time any of the items are found to be defective in material or workmanship or not in conformity with the drawings, specifications, samples, or other requirements of the Order, Buyer may, in addition to any other rights it may have under the Order or otherwise, (i) correct or have corrected the nonconformity at Seller's expense or reject

and return said item to Seller, and (ii) recover by offset or otherwise any and all costs, expenses and damages paid, incurred or suffered by Buyer as a result of or relating to holding, return, replacement, correction or rejection of nonconforming items. Rejected articles or material delivered in excess of the amount ordered herein may be returned at Seller's risk and expense. Seller shall be responsible for the cost of transportation related to the return and reshipment of any articles rejected by Buyer for failure to meet specifications. Delivery of defective parts shall not be deemed to satisfy the delivery schedule required herein nor shall acceptance of any item be deemed to alter or affect the obligation of Seller or the rights of Buyer under the Warranties article of the Order. The inspection, review or approval by Buyer of any work, drawing, design or other document shall not relieve Seller of any of its obligations under the Order or constitute a waiver of any defects or non-conformities in any articles.

7. CHANGES.

(a) Buyer may, at any time, by written order, and without notice to sureties, if any, make changes within the general scope of the Order in any one or more of the following: (1) drawings, designs, specifications or other technical documents; (2) method of shipment or packing; (3) place of delivery, inspection or acceptance; (4) quantity of items; (5) delivery schedules; and (6) amount of Buyer furnished property. Seller shall comply immediately with such direction and avoid unnecessary costs related thereto. If any such change causes a material increase or decrease in the cost of or time required for performance of any work under the Order, an equitable adjustment in the price or delivery schedule shall be made when justified by such change. However, no favorable adjustment of any kind shall be afforded to Seller with respect to changes made necessary by reason of defects or potential defects in any item for which Seller would be liable under the terms of the Order. Seller's claim for adjustment, stating the amount claimed and reasons therefor, shall be made in writing within thirty (30) days from the date the change was ordered. Seller's failure to so assert its claim shall operate as a waiver. The parties shall establish through negotiation whether or not any Buyer-directed change is one which in fact authorizes an equitable adjustment under this article, and if so, the nature of such adjustment. Failure to agree with respect to any such negotiations shall be a dispute and either party may pursue its remedies as provided herein. Pending resolution of such dispute, Seller shall diligently pursue the performance of the Order as changed. Seller shall make available for Buyer's examination relevant books and records to verify Seller's claim for adjustment.

(b) No information, advice, approvals or instructions by Buyer's personnel shall affect Buyer's and Seller's rights and obligations hereunder, unless the same is in writing, signed by an authorized representative of Buyer's Purchasing Department, and expressly states that it constitutes a change to the Order.

8. WARRANTIES. Seller warrants that all articles, materials, work or services furnished hereunder shall be free from defects in material and workmanship and that all items or services furnished or provided will conform to applicable specifications, drawings, samples and other descriptions. Unless manufactured pursuant to detailed design furnished by Buyer, Seller assumes design responsibility and warrants the items to be suitable for the purpose intended. Seller warrants that any services provided under the Order shall be performed in a professional manner and in accordance with generally accepted industry standards. The warranties of Seller, including without limitation its service warranties and guaranties, shall run to Buyer, its assigns

and each successive customer. In addition, Seller agrees to pass any warranty benefits to Buyer that Seller receives from its suppliers of any item ordered hereunder.

9. LIMITATION OF LIABILITY. In no event shall either party be liable for any indirect, special, incidental or consequential damages arising out of or related to the Order or any products or services provided thereunder, provided that the foregoing shall not limit Seller's indemnity and hold harmless obligations under the Order.

10. RISK OF LOSS, INDEMNIFICATION AND INSURANCE. Whenever Seller shall, by virtue hereof, have in its possession property of Buyer, Seller shall be deemed an insurer thereof and shall be responsible for its safe return to Buyer.

(a) Unless otherwise provided in the Order, Seller shall have title to and bear the risk of any loss of or damage to the items purchased hereunder until they are delivered in conformity with the Order at the F.O.B. point specified on the face hereof and upon such delivery title shall pass from Seller and Seller's responsibility for loss or damage shall cease, except for loss or damage resulting from Seller's negligence or failure to comply with the Order. Passing of title upon such delivery shall not constitute acceptance of the items by Buyer.

(b) Seller shall be an independent contractor and agrees to indemnify and hold harmless Buyer, its officers, directors, affiliates and employees from any cost, damage, expense or other loss or liability incurred or paid, arising out of or on account of claims of or suits whether in law or in equity, which may be asserted or brought against any of the indemnified parties hereunder, for property damage or destruction, personal injury or death or any other damages of whatsoever nature or kind, including claims of breach of contract, in any way related to Seller's work, its products, workmanship, services or the actions or omissions of Seller or its employees, agents, or subcontractors, except for claims arising through the claimed sole and exclusive negligence of Buyer. Seller agrees to pay or reimburse Buyer for any expenditures, including reasonable attorney's fees and amounts paid in settlement, that Buyer may make or become liable for in connection with the investigation, settlement, defense or otherwise by reason of such claims or suits and, if requested in writing by Buyer, will defend any such suits with counsel acceptable to Buyer at the sole cost and expense of Seller; Seller agrees to pay and to discharge any judgment, orders or decrees rendered or entered against any of the indemnified parties for any matter indemnified hereunder; Buyer may retain any money due or to become due to Seller sufficient to reimburse Buyer against any such claims, demands, judgments, or liability. Seller shall also maintain at all times during performance of its work related to the Order adequate workers' compensation insurance to cover all of its general and special employees engaged in such work and insurance to insure against claims for injury to or death of persons or destruction or damage to property (including Buyer's employees and property) which may arise from Seller's actions or omissions in the performance of its work or in the design or manufacture of its products; such insurance shall specifically include contractual liability coverage.

11. TERMINATION

(a) **DEFAULT.** Buyer may terminate the Order in whole or from time to time in part in any of the following circumstances: (i) if Seller refuses or fails to deliver the items or any installment thereof or perform any service required by the Order strictly within the time specified

herein or any extension thereof granted by Buyer in writing; (ii) Seller fails to strictly comply with any other provision of the Order, so fails to make progress as to endanger performance of the Order in accordance with its terms, or repudiates the Order; (iii) if Seller suspends its business or becomes insolvent or subject to any law relating to bankruptcy, insolvency or relief of debtors; or (iv) Seller fails to provide assurances of performance requested by Buyer. If Buyer requests assurances of performance, Seller shall provide such assurances of performance in writing within seven (7) days.

In the event of such termination, Buyer may purchase or manufacture similar items without further payment or require Seller to transfer title and deliver to Buyer in the manner and to the extent directed by Buyer of (i) any completed items and (ii) such partially completed items and materials, parts, tools, dies, plans, drawings, contract rights and other property and technical data as Seller has produced, acquired or used in performance of the Order. Buyer's liability to Seller shall be limited to payment to Seller at the contract price for items delivered pursuant to (i) above (equitably reduced if they are nonconforming), and for items delivered pursuant to (ii) above, the smallest of: (a) its fair market value, or (b) its cost to Seller.

Seller shall continue performance of the Order to the extent not terminated. Buyer's rights as set forth herein are in addition to all other remedies provided in law or equity. If Seller defaults in performance of the Order or fails to make progress so as to endanger performance or become insolvent or makes an assignment for its creditors, or is the subject of bankruptcy proceedings, Buyer may, by written notice, terminate the Order for default effective immediately. Thereafter, Seller shall be responsible for Buyer's costs in securing other performance of the Order and such other damages as may arise by reason of Seller's default. Payment for completed work shall be at the contract price, and payment for other materials shall be in an amount agreed to by the parties. In the event that Seller is terminated for default and is subsequently found to not have been in default the termination shall be converted to a convenience termination, and Seller shall have no claim for lost profits, consequential or special damages or any other cost or damages beyond the termination claim allowed under the termination for convenience provision below.

(b) **CONVENIENCE.** Buyer, by written notice, may terminate the Order in whole or in part, without cause, at any time whenever it shall determine that such termination is in its best interest. Upon receipt of such notice, Seller shall stop work to the extent that the Order has been terminated. Within 30 days of receipt of a notice of termination under this subparagraph, Seller shall submit its claim, if any, for the cost of performing the work to the date of termination and for the cost of terminating the work. Buyer shall pay for work completed and goods received prior to the termination date at the contract price. Buyer and Seller shall agree on other amounts to be paid Seller for work performed and costs occasioned by the termination. Nothing in this clause shall obligate Buyer to pay more than the total Order price as reduced by payments made prior to the termination.

12. SUSPENSION OF WORK. Buyer may order the suspension of all or part of the work for a period of up to ninety (90) days. Within such period, or any extension thereof to which the parties shall have agreed, Buyer shall either: (i) cancel the stop work order, (ii) let such order expire, or (iii) terminate the work covered by such order pursuant to Section 11 herein. If a stop work order is cancelled or the period of any extension expires, Seller shall resume work. If the

suspension has a material effect on cost or delivery, an equitable adjustment shall be made in price (excluding profit) or delivery. No claim shall be allowed unless made in an amount stated within twenty (20) days after the suspension ends. Buyer or its duly authorized representative shall have access to and the right to examine all pertinent books, records and documents of Seller to substantiate such claim.

13. COMPLIANCE WITH STATUTES AND GOVERNMENT REGULATIONS.

Seller warrants that in the performance of work under the Order, it has complied with and will comply with all applicable federal, state and local laws and ordinances and all lawful orders, rules and regulations thereunder, including but not limited to, all applicable environmental laws and regulations, and all FAA regulations, orders and other requirements (“FAA Requirements”) directly or indirectly applicable to Seller, Seller’s performance under the Order, or any goods or services provided or to be provided or performed under the Order. Seller shall indemnify and hold harmless Buyer from and against all losses, costs, fees and damages arising, directly or indirectly, from any actual or alleged failure by Seller to comply with any federal, state or local statutes or other legal obligations, including without limitation all FAA Requirements.

14. WAIVER. No waiver of any provision of the Order shall be valid or binding unless it is in writing, dated subsequent to the date hereof and signed by the parties hereto. No waiver of any breach, term or condition of the Order by either party shall constitute a subsequent waiver of the same or any other breach, term or condition. No failure or delay of either party in exercising any right under the Order shall operate as a waiver thereof, nor shall any partial exercise by either party of any right under the Order preclude any other or further exercise thereof or the exercise of any other right.

15. SEPARABLE PROVISIONS. If any provision of the Order shall be held invalid or unenforceable, the remainder nevertheless shall remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it nevertheless shall remain in full force and effect in all other circumstances.

16. INSPECTION AND AUDIT OF BOOKS AND RECORDS. Seller shall keep and maintain such books, records and other documents as are necessary to demonstrate its compliance with all FAA Requirements. Seller grants to Buyer or its authorized representative, the right to examine those books, records, documents and other supporting data which will permit adequate evaluation of Seller’s compliance with all FAA Requirements. This right may be exercised at any time or times, on reasonable advance notice to Seller.

17. PATENT PROTECTION. Seller shall conduct, at its own expense, the entire defense of any claim, suit or action alleging that, without further combination, the use or resale by Buyer, or any subsequent purchaser or user of items delivered hereunder, directly infringes any patents of the nation in whose territory the Buyer’s, or subsequent purchaser’s or user’s principal office is located, but only on the conditions that: (a) Seller receives prompt written notice of such claim, suit or action and full opportunity and authority to assume the sole defense thereof, including settlement and appeals, and all information reasonably available to Buyer for such defense; (b) said items are made according to a specification or design furnished by Seller or, if a process patent is involved, the process performed by the items is recommended in writing by Seller; and (c) the claim, suit or action is brought against Buyer or a party indemnified by Buyer.

Provided all of the foregoing conditions have been met, Seller shall, at its own expense, either settle said claim, suit or action or pay all damages and costs awarded by the court therein. If the use or resale of such items is finally enjoined, Seller shall, at Seller's option: (i) procure for defendant the right to use or resell the items, (ii) replace them with equivalent non-infringing items, or (iii) modify them so they become non-infringing but equivalent.

18. CONFIDENTIAL DISCLOSURE. Seller shall protect as proprietary and keep confidential all proprietary information including but not limited to, designs, processes, drawings, specifications, reports, data, and other technical or business information and the features of all parts, equipment, tools, gauges, patterns, and other items furnished or disclosed to Seller by Buyer. Unless otherwise provided herein or authorized by Buyer in writing, Seller shall use such information and items, and the features thereof, only in the performance of the Order; thus Seller shall not sell, or otherwise dispose of as scrap or otherwise any completed or partially completed or defective proprietary goods without defacing or rendering such goods unsuitable for use. All intellectual properties and data supplied to Seller in electronic form is included within this provision. Upon completion or termination of the Order, Seller shall, at Seller's expense, make such disposition of all such proprietary information, items and goods as herein required or as may be subsequently directed by Buyer. Buyer shall have the right to audit all pertinent books and records of Seller in order to verify compliance with this clause on reasonable advance notice. In all subcontracts for performance of work related to the Order, Seller shall include provisions which provide to Buyer the same rights and protections as provided in this clause.

19. RIGHTS IN DATA. Seller hereby grants to Buyer the right to reproduce, modify, and use, in whole or in part, in any manner and for any purpose whatsoever in connection with Buyer's business, all or any part of Seller's reports, designs, processes, drawings, specifications and other technical information and data developed, designed, delivered or used in the performance of the Order.

20. QUALITY ASSURANCE. Seller shall maintain its quality system in compliance with the Buyer's requirements, if any, as set forth in the Order. For material furnished by Seller, Seller agrees to achieve and thereafter maintain a "certified" status. In the event that Seller fails to achieve or maintain a certified status, all costs associated with continued source inspection, by an approved inspection provider, will be borne by seller without impact to established pricing. Seller shall permit representatives of Buyer, its customers and any government regulatory agency, to conduct quality system and/or product audits as may be requested by Buyer to evaluate quality compliance at Seller's facility and/or any of Seller's sub-tier suppliers' facilities. Seller shall make available all contracts, specifications, instructions, procedures, records, and special requirements as may be directed by Buyer. Seller shall include the substance of this clause in all subcontracts issued hereunder.

21. CYCLE TIME REDUCTION. Seller agrees to actively pursue methods of cycle time reduction for the contracted product or service and to participate in cycle time reduction projects to achieve specific goals agreed upon between Buyer and Seller.

22. ORDER OF PRECEDENCE. In the event of any conflict between these General Terms and Conditions, the Order and any other term or condition accepted by the Buyer, the

order of precedence shall be as follows: (1) Special Terms and Provisions set forth on the face of the Order; (2) These General Terms and Conditions of Purchase; (3) Drawings; (4) Specifications; and (5) Any regulating agency (such as, but not limited to: FAA, OSHA, 49 CFR, etc.) where applicable.

23. APPLICABLE LAW, FORUM, AND DISPUTES. Seller and Buyer agree that the Order shall be deemed to be made and executed in Snohomish County, Washington, regardless of the order in which the signatures of the parties shall be affixed hereto and that the Order and performance hereunder shall be governed, interpreted and construed in accordance with the laws of Washington. Seller irrevocably consents and submits to personal jurisdiction and venue of the state of Washington, Snohomish County. Pending resolution by agreement or final judgment of any dispute, action or claim relating to or arising out of the Order, Seller will proceed diligently with performance of the Order in accordance with Buyer's decision and direction.

24. EQUAL OPPORTUNITY. For Government contracts, the parties hereby incorporate the requirements of 41 CFR Sections 60-1.4(a)(7), 60-250.5 and 60-741.5, if applicable. For commercial contracts, both Buyer and Seller agree that, to the extent applicable, they will comply with Executive Order 11246 and the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 503 of the Vocational Rehabilitation Act of 1973 and also agree that these laws are incorporated herein by this reference.

25. NO PUBLICITY. Seller agrees that it will not, nor will its officers, employees, agents, representatives or subcontractors, without the prior written consent of Buyer in each instance: (i) use in advertising, publicity or otherwise the name of Buyer, or its affiliates or of any director, employee or contractor of Buyer or its affiliates (collectively, the "Buyer Group") or any trade name, trade mark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by the Buyer Group; or (ii) represent directly or indirectly, that any Seller product or service has been approved or endorsed by the Buyer Group.

26. GENERAL. The Order, including these General Terms and Conditions of Purchase and Exhibit A hereto, and all attachments, exhibits or supplements specifically referenced in the Order, constitutes the complete and entire agreement between Buyer and Seller concerning its specific subject matter, supersedes all prior oral or written representations, proposals and agreements concerning its specific subject matter, and may only be modified in writing, signed by the parties hereto. Seller may not assign the Order, and any assignment of the Order or any interest herein or any payment due or to become due hereunder, shall be void. Seller agrees that Buyer may assign its rights and delegate its duties in whole or in part.

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Exhibit A

Shipping and Packing

1. PACKING AND CRATING. All items shall be suitably packed by Seller to ensure protection in shipment and storage. Prices include all charges for Seller's packing and crating. Shipments of any hazardous materials or substances must be packaged and transported in compliance with all applicable provisions of CFR Title 49.

2. PACKING SHEET. Packing sheets must accompany each shipment and must contain the following: (1) Order Number; (2) Order Item Number; (3) Buyer Part Number; (4) Buyer Need by Date; (5) Quantity Shipped; (6) Unit of Measure; (7) Packing Slip Number; and (8) Number of Containers. Each container must be identified on the outside in ascending order; i.e. Box 1 of 2, Box 2 of 2, etc. Order number must be shown on all invoices, bills of lading, and correspondence.

3. INSURANCE. Each shipment is insured by Buyer upon its delivery to the F.O.B. point. Seller should never insure or declare excess valuation on carrier bills. When carrier rates are based on released valuation of items shipped, Seller shall declare the lowest released valuation to obtain the lowest possible tariff rate. Excess tariff charges resulting from insurance or increased valuation will be charged back to Seller.

4. BILL OF LADING. Sellers must show Buyer's Purchase Order number(s) and Job Number on the carrier's bill of lading.

5. ROUTING. Sellers must contact the Buyer's Shipping Department (425-423-3060) if shipments cannot be routed via the carrier specified on the Order.

6. SCHEDULE. Seller agrees to notify Buyer of any potential delay in scheduled delivery dates required by the Order.

[Seller agrees to pay liquidated damages, not as a penalty, to Buyer in the event of late delivery of any ordered product, in the amount of ___% of the price for such product per week.]

[7. C-9 PROGRAM. For all Orders under the C-9 Program, Supplier will comply with the following FAR provisions:

- 52.244-2, "Subcontracts," subparagraphs (h) and (i) only
- 52.244-5, "Competition in Subcontracting"
- 52.244-6, "Subcontracts for Commercial Items"]