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TERMS & CONDITIONS OF PURCHASE

*Please retain a copy of this document for reference
with all Fleet Canada Inc. purchase Orders*

1. DEFINITIONS

The following definitions apply unless otherwise specifically stated:

- "Purchaser" – legal entity issuing the Order, Fleet Canada Inc.
- "Vendor" – person or company providing services and/or supplies.
- "Goods" – all items, including raw materials, components, intermediate assemblies, end products, tooling and or/services to be delivered or performed under the purchase Order.
- "Order" – the purchase Order including all documents listed therein and attached thereto.

2. ACKNOWLEDGEMENT

Concurrence of the Order by Vendor shall be deemed unless notice is submitted to Purchaser of any exception thereto within five (5) days from the date the Order is forwarded to Vendor. Acknowledgement of this Order shall be limited to the terms and conditions contained herein and incorporated herein by reference.

3. INVOICES

One (1) copy of Vendor's invoice is to be mailed to the attention of Accounts Payable department of Purchaser, or alternately emailed to accountspayable@fleet.ca.

4. CUSTOMS INVOICES AND DOCUMENTS

International shipments must be covered by commercial invoices/customs invoices (three copies), the Bill of Lading, and the certificate of origin under the North American Free Trade Agreement, if a U.S. Vendor and if the Goods qualify.

5. PACKING NOTES

Detailed packing notes must be issued covering shipments against this Order.

6. MANUFACTURER'S CERTIFICATES/CERTIFICATES OF CONFORMANCE

Manufacturer's Certificates and/or Certificates of Conformance required on the Order must be included with the shipment.

7. MARKINGS ON DOCUMENTS AND CONTAINERS

Invoices, packing notes and containers must be clearly marked with this Order number. Invoices and packing notes must indicate the number of containers in a shipment. Packaging, labeling and shipping of all hazardous materials shall conform to the requirements of all applicable international, federal, provincial, state and local regulations.

8. PRICES AND SUBSTITUTIONS

Prices must conform with those shown on the Order and no changes or other substitutions by Vendor will be accepted unless written authority is received from Purchaser. However, Purchaser may, at any time, by written notice make changes within the general scope of the Order in any one or more of the following:

- a. Drawings, designs or specifications
- b. Method of shipment or packaging
- c. Place of inspection, delivery or acceptance
- d. Reasonable changes in quantity
- e. Reasonable changes in delivery schedule
- f. Amount of Purchaser-furnished property

Vendor shall proceed immediately to perform the Order as changed. If any such change causes an increase or decrease in the cost of or the time required for the performance of any part of the Order, Purchaser and Vendor will agree upon an equitable adjustment in the purchase price or delivery schedule or both. To qualify for adjustment consideration, any notice of intent by Vendor to file a claim hereunder must be asserted within thirty (30) days from the date of receipt by Vendor of such written notice of change. Purchaser shall not act upon any such claim at any time prior to final payment under the Order. Nothing in this clause shall excuse Vendor from proceeding with the Order as changed.

9. WARRANTY

- a. In addition to all warranties prescribed by law, Vendor warrants the articles delivered or services rendered pursuant to this Order shall be free from defects in workmanship, materials and design and be in accordance with Purchaser's specifications, drawing and/or samples in all respects. These warranties shall survive final acceptance, payment and termination of this Order.
- b. This warranty shall extend to Purchaser and Purchaser's customers.
- c. Vendor shall be liable for and save Purchaser harmless from any loss, damage, or expense whatsoever that Purchaser may suffer from the breach of any of these warranties, including replacement (if Purchaser so elects) of nonconforming articles.
- d. Vendor shall notify Purchaser with seven (7) days of the discovery of any latent defects in the articles furnished or services supplied under this Order or any previous Orders.

10. PACKING, DELIVERY, TITLE

- a. **Packing** – All Goods must be packed so as not to adversely affect the quality of the Goods. Charges and containers for packing are included in the price, unless otherwise agreed to by Purchaser on this Order.
- b. **Delivery** – Goods must be delivered in the manner and within the time specified on this Order. Deliveries can be made up to fifteen (15) days prior to scheduled Order date.
- c. **Title** –
 - (i) Title to Goods shall pass to Purchaser upon formal acceptance, which shall occur at Purchaser's facility within thirty (30) days of receipt, or upon payment, in whole or in part, unless otherwise provided in the Order.
 - (ii) Unless the Order specifically provides otherwise, risk of loss or damage to Goods shall remain with Vendor until, and shall pass to Purchaser upon, delivery of the Goods to a carrier, if transportation is F.O.B. origin; or acceptance by Purchaser or delivery of the Goods to Purchaser at the destination specified in the Order, whichever is later, if transportation is F.O.B. destination.
 - (iii) Paragraph (ii) above shall not apply to Goods that so fail to conform to Order requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming Goods remains with Vendor until cure or acceptance, after which time Paragraph (ii) above shall again apply.
 - (iv) Under Paragraph (ii) above, Vendor shall not be liable for loss or damage to Goods caused by negligence of officers, agents or employees of Purchaser.
 - (v) All Goods delivered by Vendor under the Order shall be free and clear of all liens and encumbrances whatsoever.

11. INSPECTION AND REJECTION

All Goods purchased shall be subject to Purchaser's inspection and any payments made prior to the time of delivery shall not constitute acceptance as to quality or quantity. Purchaser reserves the right to reject the whole or any part of any shipment in which Goods are found which do not conform to the required quality or quantity. In the event any Goods are rejected by Purchaser, such Goods may be returned to Vendor at Vendor's expense and the cost of re-inspection by Purchaser shall be borne by Vendor. Purchaser reserves the right to audit and inspect all quality systems, manufacturing records and operations, prior to contract award, and prior to and during manufacture.

12. THIRD PARTY PATENT RIGHTS

Vendor agrees to save harmless and indemnify Purchaser against loss or damage by reason of any claim or infringement of any Patent on account of the manufacture, sale or use of any Goods supplied to it by Vendor under this Order, except in the case of Goods manufactured to Purchaser's definition.

13. TERMINATION

- a. For Default – in the event Vendor fails to (i) deliver the Goods within the time specified in the Order or any extension; (ii) make progress, so as to endanger performance of the Order; or (iii) comply with any other fundamental provision of the Order; then Purchaser may terminate the Order in whole or in part if Vendor does not cure such failure within ten (10) days (or more if authorized by Purchaser) without incurring liability. In the event of any such default by Vendor, Purchaser may, at its option, either cancel the Order or may return or obtain from any source the Goods required to complete the Order, and Vendor shall indemnify Purchaser from and against any cost resulting from the termination of the Order.

- b. For Insolvency – if Vendor becomes insolvent or has a receiver, trustee or liquidator appointed for all or a portion of its business, or for any act of bankruptcy, or for any voluntary petition in bankruptcy or if Purchaser has a bona fide reason to believe that any of such events may occur, Purchaser shall have the right without prejudice to any other remedy to suspend the performance of or terminate the Order without incurring liability except in respect of Goods previously delivered.
- c. For Convenience – the Order may be terminated by Purchaser at any time in whole or in part by delivery of a notice of termination to Vendor. In the event of such notice being given, Vendor shall stop all work forthwith and comply with any directions with regards to the Goods which may be given by Purchaser. Vendor shall submit an account to Purchaser within one (1) month from the effective date of termination in the form prescribed by Purchaser. Purchaser hereby agrees to pay Vendor a fair and reasonable price for all Goods purchased undertaken up to the time of termination. Such agreed prices taken together with any sums paid or due or becoming due to Vendor under the Order shall not exceed the total price of the Goods under the Order and no amount shall be anticipated profit for performance not rendered.
- d. Any termination of the Order shall not prejudice any rights or remedies which may have accrued to either Vendor or Purchaser and both parties shall use all reasonable efforts to mitigate its losses on such termination. Upon termination, all tooling and material furnished to Vendor by Purchaser shall be immediately returned to Purchaser pursuant to the written instructions provided to Vendor by Purchaser.

14. DIES, JIGS, TOOL PATTERNS, ETC.

Ownership of all tooling, jigs, dies, patterns, etc, provided by Purchaser to Vendor remains with Purchaser. Vendor shall not use tooling, etc, for any third party or purpose outside the scope of the Order without the express written consent of Purchaser. Vendor will store and maintain all tooling, jigs, dies, patterns, etc, at no charge and annually send a condition report to Purchaser.

15. ACCEPTANCE

Vendor, by the acceptance of this Order, accepts all terms and conditions hereof, which supersede and take precedence over any and all previous verbal or written arrangements in connection with this Order, including but not limited to any differing conditions which may appear on Vendor's acknowledgement forms or similar documents. Any deletions, modifications, alterations of, or additions to, the terms and conditions of the Order to be binding, shall be in writing and signed by both Vendor and Purchaser.

16. INDEMNIFICATION

Vendor shall indemnify and hold harmless Purchaser, its officers and employees against any and all claims, costs, damages, liabilities and expenses by reason of any alleged or actual property damage or personal injury (including all legal costs) caused by or resulting from any act or omission of Vendor or its employees, agents, subcontractors or suppliers in the performance of the Order.

17. APPLICABLE LAW AND VENUE

This Order shall be governed and interpreted in accordance with the laws of the Province of Ontario, Canada and both Vendor and Purchaser hereby irrevocably consent to the exclusive jurisdiction of the courts of the Province of Ontario with respect to any suit, action or other judicial proceedings initiated in connection with this Order. Vendor further agrees not to pursue any suit, action or other judicial proceedings against Purchaser arising out of or connected with, this Order or the performance thereof in any jurisdiction other than the Province of Ontario, Canada.

18. SUBCONTRACT AND ASSIGNMENT

Vendor agrees that it will not subcontract, without Purchaser's prior written consent, in whole or any substantial portion of the Goods under the Order. This limitation shall not apply to Vendor's purchases of standard commercial supplies or raw material. Neither the Order nor any claim hereunder shall be assigned by Vendor either voluntarily or by operation of law without prior written consent of Purchaser.

19. COMPLIANCE WITH LAWS AND REGULATIONS

In the performance of the Order, Vendor shall comply with all applicable statutes and government rules, regulations and Orders. Vendor shall indemnify, save harmless and defend Purchaser from and against all losses, costs, fees and damages arising directly or indirectly from any actual or alleged failure by Vendor to comply with any such statutes, rules, regulations and Orders.

20. WAIVER AND SEVERABILITY

Any action or inaction by Purchaser or failure of Purchaser to enforce any right or provision of the Order shall not be construed as a waiver or relinquishment of the future exercise of any such rights. A determination that any portion of the Order is unenforceable or invalid shall not affect the enforceability of validity of any of the remaining of the Order.

21. USE OF PURCHASER'S DATA AND PROPERTY

- a. Vendor shall not use or disclose any data, designs, drawings or other information belonging to or supplied by or on behalf of Purchaser, except as necessary in the performance of the Order and only with the knowledge and consent of Purchaser. All data, etc, will be immediately returned to Purchaser, at Vendor's cost, upon demand.
- b. Vendor shall be liable for any loss, damage or destruction to Purchaser property and data furnished to Vendor and shall be responsible for returning such property and data to Purchaser in as good condition as when received except for reasonable wear and tear or for the utilization of the property and data in accordance with the provisions of the Order.

22. NOTICE TO PURCHASER OF LABOUR DISPUTES OR OTHER BUSINESS INTERRUPTIONS

If Vendor has knowledge that any actual or potential labour dispute or other business interruption is delaying or threatens to delay the timely performance of the Order, Vendor shall immediately give notice, including all relevant information, to Purchaser.

23. FLOWDOWNS

Vendor will adhere to any applicable terms and conditions from Purchaser's customers which are incorporated by reference to the Order by Purchaser and Vendor will indemnify and save harmless Purchaser against any claims made in connection herewith.

24. CONFIDENTIALITY

- a. Vendor shall keep confidential all information, drawings, specifications or data, furnished by Purchaser in connection with this Order and shall not divulge or use, directly or indirectly, such information for the benefit of any other party. Except as required for the efficient performance of this Order, Vendor shall not make or permit to be made, copies without the prior written consent of Purchaser. Any such copies shall be this notice thereon. Upon completion or termination of this Order, Vendor shall retain and hold all such information in confidence or make such disposition as Purchaser may direct.
- b. Vendor agrees that all information furnished or disclosed by Vendor to Purchaser, in connection with the placing or performance of this Order, is furnished or disclosed as a part of the consideration for this Order, that such information is not, unless otherwise agreed to by Purchaser in writing, to be treated as confidential or proprietary, and Vendor shall assert no claims by reason of the use or disclosure of such information by Purchaser, its assigns or its customers.
- c. Vendor shall not advertise or publish the fact that it has furnished, or contracted to furnish, the Goods herein nor disclose any details of this order without Purchaser's prior written consent.