



## General Purchase Order Terms & Conditions (GPO-Ts&Cs)

As used herein, "Seller" includes Seller, its subsidiaries and affiliates; The Northwest ULD, Inc., dba Northwest UAV Propulsion Systems and its subsidiaries and affiliates (hereinafter "NWUAV"). Seller and NWUAV hereby agree as follows:

**1. Goods and Services.** Seller agrees to provide the goods and/or services described in this purchase order (the "Goods" and/or the "Services") in accordance with the requirements set forth on the face of the applicable purchase order (the "P.O.") and these terms and conditions. The P.O. and these terms and conditions constitute and are collectively referred to as the "Agreement".

This Agreement may not be added to, modified, superseded or otherwise altered, except by writing signed by an authorized NWUAV representative. Any terms or conditions contained in any acknowledgment, invoice or other communication of Seller, which are in addition to or different from the terms and conditions herein, are hereby specifically rejected. To the extent that this Agreement might be treated as an acceptance of Seller's prior offer, such acceptance is expressly made on condition of acceptance of these term and conditions by Seller and shipment of the Goods by Seller shall constitute such acceptance. NWUAV hereby reserves the right to reschedule any delivery or cancel any purchase order issued at any time prior to shipment of the Goods. NWUAV will not be subject to any charges or other fees as a result of such cancellation, unless NWUAV pre-authorizes termination liability in writing. NWUAV hereby reserves the right to reschedule any delivery (subject to clause 11 herein) or cancel any purchase order issued at any time prior to shipment of the Goods (subject to clause 15 herein).

**2. Delivery.** Goods delivered pursuant this Agreement shall be suitably packaged for shipment in appropriate containers to permit safe transportation and marked for shipment by Seller to the shipping destination specified in the applicable purchase order. All packages must be accompanied by a packing list detailing the contents including description and quantity of the goods, part number or size, if applicable, and appropriate evidence of inspection. NWUAV's P.O. number and line item number must appear on all packing lists and/or bills of lading. All goods shipped and delivered by Seller internationally shall be shipped to NWUAV, DDP (Delivered Duty Paid, Incoterms 2000); if shipped domestically, FOB: Destination, McMinnville, Oregon, USA unless otherwise stated in the purchase order. Seller shall strictly adhere to the shipment or delivery schedules specified in this Agreement. In the event of any anticipated or actual delay for any reason, including but not limited to labor disputes, Seller shall: (i) promptly notify NWUAV in writing of the reasons for such delay and the actions being taken to overcome or minimize the delay; (ii) provide NWUAV with a written recovery schedule; and



(iii) if requested by NWUAV, ship via air or other expedited routing to avoid or minimize delay to the maximum extent possible, unless Seller is excused from prompt performance as provided in the “Force Majeure” clause of this contract. The added premium transportation costs are to be borne by Seller. If any Goods are not shipped within thirty (30) days after the shipping date specified in the applicable purchase order, then NWUAV may cancel the applicable purchase order with respect to any such Goods by giving Seller written notice of such cancellation, and any such cancellation shall be without any cost, penalty, or liability to NWUAV. Seller shall promptly refund all monies paid by NWUAV with respect to any cancelled Goods.

**3. Identification, Risk of Loss & Destruction of Goods.** Title to the Goods and risk of loss shall pass to NWUAV upon delivery (McMinnville, Oregon). If the Goods ordered are destroyed prior to title passing to NWUAV, NWUAV may at its option cancel the Agreement or require delivery of substitute Goods of equal quantity and quality. Such delivery shall be made as soon as commercially practicable. If loss of Goods is partial, NWUAV shall have the right to require delivery of the Goods not destroyed.

**4. Payment.** As full consideration for delivery of the Goods and/or Services and the assignment of rights to NWUAV as provided herein, NWUAV shall pay Seller the amount agreed upon and specified in the P.O. Seller’s invoice shall separately state all applicable taxes and other charges such as shipping costs, duties, customs, tariffs, imposts and government imposed surcharges. Seller shall consider payment made when NWUAV places a check in the mail to Seller for the Goods and/or Services. Payment shall not constitute acceptance unless otherwise stated herein. All personal property taxes assessable upon the Goods prior to receipt by NWUAV of Goods conforming to the P.O. shall be borne by Seller. Seller shall invoice NWUAV for only Goods delivered and Services completed. Unless otherwise specified on the face of the P.O., NWUAV will pay the invoiced amount within thirty (30) days after receipt of acceptable invoice or the actual delivery date, whichever is later. Seller will not be entitled to any royalty or other remuneration on the production or distribution of any products developed by NWUAV in connection with or based on the Goods.

**5. Warranties.** Seller warrants that all Goods and/or Services furnished under this contract shall conform to all specifications and requirements of this Agreement and shall be free from defects in materials and workmanship for a period of one year. To the extent Goods are not manufactured pursuant to detailed designs and specifications furnished by NWUAV, the Goods shall be free from design and specification defects. Seller warrants that all Goods provided shall be new and will not be used or refurbished unless so specified on the P.O. Additionally, Goods purchased shall be subject to all written and oral express warranties made by Seller's agents. All warranties and Service guaranties shall not be exclusive and shall run both to NWUAV and its customers.



Should NWUAV identify a warranty problem with the Goods during the applicable warranty period, NWUAV shall promptly notify Seller of such problem and, at Seller's expense and NWUAV's option, either return the Goods to Seller, repair the Goods or have the Good repaired. Within five (5) business days of receipt of any returned Goods, Seller shall, at NWUAV's option and Seller's expense (i) either repair or replace such Goods; (ii) credit NWUAV's account for the same; or (iii) obtain replacement Goods from another source. Seller shall not redeliver corrected or rejected goods without disclosing the former rejection or requirement for correction and the corrective action taken, on the packing slip. 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 Seller by equitable price reduction, adjustment, or credit against any amounts that may be owed to Seller under this Agreement. Replacement and repaired Goods shall be warranted for the remainder of the warranty period or six (6) months, whichever is longer. This warranty is transferable to NWUAV's customer(s). If Services are to be performed as part of this Agreement, Seller warrants that is qualified to perform such Services and warrants all Services in accordance with standards referenced in the Statement of Work.

**6. Quality Management.** Seller shall establish and maintain a quality management system acceptable to NWUAV for the Goods purchased under this contract. Seller shall permit NWUAV to review procedures (including production), practices, processes and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify NWUAV of any violation of or deviation from Seller's approved inspection/quality management system and to advise NWUAV of the quantity and specifically identity of any Goods delivered to NWUAV during the period of any such violation or deviation.

**7. Inspection and Acceptance.** Seller shall maintain an inspection system acceptable to NWUAV for the Goods purchased under this contract. NWUAV or its customer, at no cost, shall have reasonable access to Seller's, and Seller's subcontractor locations, facilities and records as requested to inspect Seller's facilities, documentation, processes and Goods. NWUAV shall have a reasonable time after receipt of Goods and before payment to inspect Goods for conformity with this Agreement and NWUAV's specifications and/or drawings (the "Specifications"), and Goods received prior to inspection shall not be deemed accepted ("Acceptance") until NWUAV has run an adequate test to determine whether the Goods conform to this Agreement and the Specifications. Payment in accordance with this Agreement or use of a portion of the Goods for the purpose of testing shall not constitute an Acceptance of the Goods. If Goods tendered do not wholly conform to the provisions of this Agreement and the Specifications, NWUAV shall have the right to reject such Goods. Nonconforming Goods may be returned to Seller freight collect and risk of loss will pass to Seller upon NWUAV's delivery to a common carrier. Upon Acceptance, title to all Goods, and if Goods are customized for NWUAV,



documentation, engineering and modifications to Goods shall transfer to NWUAV. Services shall be considered Accepted upon payment of Seller's invoice.

**8. Custom Products.** All Work, if any, in customizing Seller's product for NWUAV's use shall, to the extent permitted under the United States Copyright Act, be deemed a "Work made for hire," with all copyrights therein vesting in NWUAV. Other than where Work created hereunder is considered a "Work made for hire," Seller agrees to, and hereby grants, conveys and assigns to NWUAV licensing rights to all copyrights, trade secrets, patents and other intellectual property rights in all such work, and all originals and copies of such work shall be provided to NWUAV upon request or the termination or expiration of this Agreement. The Work for hire shall be the sole and exclusive property of NWUAV, and NWUAV shall own all rights therein, including without limitation the copyright therein, throughout the world. Seller further agrees to provide NWUAV with information and assistance and to execute all such additional instruments and documents as may be required to vest and evidence all such right in NWUAV, including, without limitation, any Copyright Assignment Agreements that may be requested. To the extent that NWUAV has a "look and feel" created under this Agreement ("Look and Feel"), Seller represents and warrants that the Look and Feel shall belong to the NWUAV.

**9. Subcontracting.** Seller shall maintain complete and accurate records regarding all subcontracted items and/or processes. Unless NWUAV provides prior written approval Seller may not purchase completed or substantially completed Products or purchase Services where said Services result in any Intellectual Property commitments. For the purposes of this Agreement, completed or substantially completed Products shall not include components or subassemblies.

**10. Diminishing Manufacturing Sources & Material Shortages.** Seller shall identify obsolete parts, diminishing manufacturing sources and material shortages. Criteria used in evaluating such parts shall include availability of the part(s) the life cycle use of the part and available suppliers. Seller shall monitor the parts and materials that have the potential to adversely affect NWUAV's supply of such parts production or life cycle supportability. Seller shall provide NWUAV with a minimum of sixty (60) days written notice any time a part is identified as an at risk part or material. Seller's notice shall address part cost, where and how often parts are used in the Goods, and how many parts are or will be affected. Seller's notice shall also include a recommendation to NWUAV stating how the parts will be supported in the future.

**11. Changes.**

a. NWUAV's Authorized Procurement Representative may, without notice to sureties and in writing, direct changes within the general scope of this Agreement in any of the following areas: (i) technical



requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of NWUAV-furnished property; and, if this Agreement includes services, (vi) description of services to be performed; (vii) time of performance (e.g., hours of the day, days of the week); (viii) place of performance, and (ix) terms and conditions of this contract required to meet NWUAV's obligations under Government prime contracts or subcontracts. Seller shall comply immediately with such direction.

b. If such change increases or decreases the cost or time required to perform this contract, NWUAV and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. NWUAV shall modify this Agreement in writing accordingly. Seller must assert any claim for adjustment to NWUAV's Authorized Procurement Representative in writing within 25 days and deliver a fully supported proposal to same within 60 days after seller's receipt of such direction. NWUAV may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, NWUAV may direct the disposition of the property. NWUAV may examine Seller's pertinent books and records to verify the amount of Seller's claim. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with NWUAV's direction.

12. **Insurance.** Seller shall be solely responsible for maintaining such adequate health, auto, workers' compensation, unemployment compensation, disability, liability, product insurance, and other insurance, as is required by law or as is the common practice in Seller's businesses, whichever affords greater coverage. Upon request, Seller shall provide NWUAV with certificates of insurance or evidence of coverage before commencing performance under this Agreement. Seller shall provide adequate coverage for any NWUAV property under the care, custody or control of Seller.

13. **Indemnification.** Seller shall indemnify, hold harmless, and at NWUAV's request, defend NWUAV, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorneys' fees and cost of suit arising out of or in any way connected with the Goods provided under this Agreement. Seller shall not settle any such suit or claim without NWUAV's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by NWUAV in enforcing this indemnity, including attorneys' fees.

14. **Confidentiality.** Any written, printed, graphic, or electronically or magnetically recorded information furnished by NWUAV for Seller's use are the sole property of NWUAV ("Proprietary Information"). Proprietary Information includes, but is not limited to, specifications, customer requirements, customer lists, marketing information, and information concerning NWUAV's employees,





products, services, prices, operations, and subsidiaries. Seller shall keep Proprietary Information in the strictest confidence, and will not disclose it by any means to any person except with NWUAV's approval, and only to the extent necessary to provide the Goods under this Agreement. This prohibition also applies to Seller's employees, agents, and subcontractors. Upon termination of this Agreement, Seller shall return any Proprietary Information in his, her or its possession to NWUAV.

**15. Export Compliance.** Seller acknowledges that the Proprietary Information and any other information transferred to Seller is subject to export controls of the US Government, and agrees not to transfer, export or re-export such information without the written permission of the US Government and NWUAV. Transfer, export, or re-export for which US Government and NWUAV permission is required includes, but is not limited to, transfer to foreign nationals or NON-U.S. Persons both inside and outside of the United States. NWUAV shall reasonably assist Seller in securing the permission described in this paragraph.

**16. Termination.** This Agreement upon written notice to Seller if Seller fails to deliver Goods within the time specified or any written extension thereof by NWUAV, or Seller fails to perform any other provisions of this Agreement or fails to make progress so as to endanger performance of this Agreement and does not correct the failure within ten (10) days after receipt of notice, or otherwise breaches this Agreement, files a petition in bankruptcy, becomes insolvent, is acquired by a foreign entity, or ceases to exist as an ongoing entity. In the event of such termination, NWUAV shall pay Seller for those conforming Goods delivered through the date of termination, less appropriate offsets. Seller shall continue work not cancelled by NWUAV. If NWUAV cancels all or part of this Agreement due to breach, Seller shall be liable for NWUAV's excess re-procurement costs.

NWUAV may terminate this Agreement for any other reason upon thirty (30) days' written notice to Seller. Seller shall cease to provide Goods under this Agreement on the date of termination specified in such notice. In the event of such termination, NWUAV shall be liable to Seller only for accepted conforming Goods, any in-process Goods delivered through the date of termination, less appropriate offsets.

Seller may terminate this Agreement upon written notice of non-payment and NWUAV fails to pay Seller within ninety (90) days after such notice of non-payment.

Upon the expiration or termination of this Agreement for any reason: (a) each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which by their terms survive such termination or expiration; and (b) Seller will promptly notify NWUAV of all Proprietary Information in Seller's possession and, at the expense of Seller and in accordance with NWUAV's instructions, will promptly deliver to NWUAV all such Proprietary Information.



17. **Remedies.** If Seller breaches this Agreement, NWUAV shall have all remedies available by law and at equity. For the purchase of Goods, Seller's sole remedy in the event of breach of this Agreement by NWUAV shall be the right to recover damages in the amount equal to the difference between market price at the time of breach and the purchase price specified in the Agreement. No alternate method of measuring damages shall apply to this transaction. Seller shall have no right to resell Goods for NWUAV's account in the event of wrongful rejection, revocation of acceptance, failure to make payment or repudiation by NWUAV and any resale so made shall be for the account of Seller.

18. **Disputes.** The parties agree to make every effort to resolve disputes through communication amongst the parties. The following steps shall be taken to resolve any disputes: (1) oral communication between the parties with escalation within the organizations; then (2) the aggrieved party shall notify the other party in writing as to the dispute with 30 days to resolve; if no resolution then (3) the aggrieved party can request a mutually funded one (1) day mediation by a mutually agreed third party to take place within 30 days of such a request. If the dispute has not been resolved after steps (1), (2), and (3) either party may then seek legal remedies. Pending final resolution of any dispute, Seller shall proceed with performance of this contract according to NWUAV's instructions provided that NWUAV continues to pay amounts not in dispute.

19. **NWUAV Property.** Seller shall clearly mark; maintain an inventory of and keep segregated or identifiable all NWUAV property and all property to which NWUAV acquires an interest by virtue of this Agreement. As directed by NWUAV, upon completion, termination or cancellation of this Agreement, Seller shall deliver such property, to the extent not incorporated into delivered Goods, to NWUAV in good condition subject to ordinary wear and tear and normal manufacturing losses. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control, including any transfer to Seller's subcontractors. Upon request, Seller shall provide NWUAV with adequate proof of insurance against such risk of loss. Seller shall notify NWUAV's Authorized Procurement Representative if NWUAV's property is lost, damaged or destroyed.

20. **Records and Audit.** Seller shall retain all records and documents pertaining to the Goods for a period of no less than seven years after final payment. Such records and documents shall date back to the time this contract was issued and shall include without limitation, catalogs, price lists, invoices and inventory records for purposes of verification of prices or rates charged by seller for Goods procured by NWUAV. NWUAV shall have the right to examine, reproduce and audit all such records related to pricing and performance to evaluate the accuracy, completeness and currency of cost and pricing data submitted with Seller's bid or offer to sell.



21. **Force Majeure.** Neither party shall be liable for any failure to perform, including NWUAV's failure to take delivery of the Goods as provided, caused by circumstances beyond that party's control which make such performance commercially impractical including, but not limited to, acts of God, fire, flood, acts of terrorism, acts of war, governmental action or inaction, accident, labor difficulties or shortage, inability to obtain materials, equipment or transportation. In the event performance is so excused, either party may terminate the Agreement and NWUAV shall at its expense and risk, return any Goods received to the place of shipment.

22. **Severability.** If any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

23. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL NWUAV BE LIABLE TO SELLER OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, WHETHER OR NOT NWUAV PROPULSION SYSTEMS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

24. **Assignment; Waiver.** Seller may not assign this Agreement or any of its rights or obligations under this Agreement, without the prior written consent of NWUAV. Any assignment or transfer without such written consent shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of NWUAV without restriction. A waiver of, or any default hereunder of any term or condition of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition.

25. **Nonexclusive Agreement.** This is not an exclusive agreement. NWUAV is free to engage others to provide Goods which are the same as or similar to Seller's. Seller is free to, and is encouraged to, advertise, offer and provide Seller's standard Goods to others; provided however, that Seller does not breach this Agreement.

26. **Notices.** Except for Purchase Orders which may be sent by local mail, facsimile transmission, or electronically transmitted, all notices, and other communications hereunder shall be in writing, and shall be addressed to Seller or to an authorized NWUAV representative, and shall be considered given when (a) delivered personally, (b) sent by email, confirmed telex or facsimile, (c) sent by commercial





overnight courier with written verification receipt, or (d) ten (10) days after having been sent, postage prepaid, by first class or certified mail.

27. **Survival of Obligations.** Any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement, including but not limited to Confidentiality and Export.

28. **Governing Law.** This Agreement shall be governed and construed in all respects in accordance with the domestic laws and regulations of the State of Oregon, without regard to its conflicts of laws principles to the contrary. The parties specifically agree that the 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

29. **Entire Agreement; Modification.** This Agreement is the complete, final and exclusive statement of the terms of the agreement between the parties and supersedes any and all other prior and contemporaneous negotiations and agreements, whether oral or written, between them relating to the subject matter of this Agreement. This Agreement may not be varied, modified, altered, or amended except in writing, including a purchase order or a change order issued by NWUAV, signed by the parties. The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any acknowledgment or other document submitted by Seller.

30. **Compliance with Laws.** Seller shall comply fully with all applicable federal, state and local laws in the performance of this Agreement including, but not limited to, all applicable employment, tax, export control and environmental laws. If Goods include hazardous materials, Seller represents and warrants that Seller understands the nature of any hazards associated with the manufacture, handling and transportation, and disposal, of such hazardous materials. Upon request, Seller will promptly provide NWUAV with a statement of origin for all Goods and United States Customs documentation for Goods wholly or partially manufactured outside of the United States.

31. **Compliance with Government Flow-down Clauses (FARs and DFARs).** Seller shall comply fully with all pertinent Government FAR and DFAR clauses applicable with this purchase. These include, but are not limited to the following: 52.225-13 Restrictions on Certain Foreign Purchases, 52.244-6 Subcontracts for Commercial Items, DFARS 252.225-7014 Preference for Domestic Specialty Metals, Alternate I. For a full list of flow-down clauses refer to the NWUAV website at [www.nwuav.com](http://www.nwuav.com) and click on the Supplier Flow-down link.

32. **Offset Credit**



a. To the exclusion of all others, NWUAV or its assignees shall be entitled to all industrial benefits or *offset* credits which might result from this Agreement. Seller shall provide documentation or other information which NWUAV or its assignees may reasonably request to substantiate claims for industrial benefits or offset credits.

b. Seller agrees to use reasonable efforts to identify the foreign content of goods that Seller either produces itself or procures from subcontractors for work directly related to this Agreement. After selection of a non-U.S. subcontractor for work under this contract, Seller shall promptly notify NWUAV of the name, address, and subcontract point of contact, (including telephone number and email address) and dollar value of the subcontract.

### **33. Reciprocal Waiver of Claims – Qualified Anti-Terrorism Technology**

a. This agreement may involve the manufacture, sale, use, or operation of qualified anti-terrorism technologies. You are a contractor, subcontractor, supplier, vendor, customer, or contractor and subcontractor of a customer of such technologies. As such, pursuant to 6 U.S.C. §443(b) of the SAFETY Act and 6 C.F.R. §25.5(e), you shall be responsible for losses, including business interruption losses, that you sustain (and for losses that your employees sustain) resulting from an activity resulting from an act of terrorism when the qualified anti-terrorism technologies have been deployed in defense against or response to or recovery from such act of terrorism.

b. "Qualified anti-terrorism technology", "act of terrorism," and "loss" are defined in 6 U.S.C. §444.

c. Include the substance of this clause, including this paragraph (c), in all Contracts, P.O.'s, or Subcontracts or P.O.'s with a contractor, subcontractor, supplier, vendor, customer, or contractor and subcontractor of a customer. In accordance with FAR 50.205-1 (Safety Act Considerations 2007), the U.S. Government is not a "customer" from which a contractor must request a reciprocal waiver of claims.

### **34. Suspension of Work**

a) NWUAV's Authorized Procurement Representative may, by written order, suspend all or part of the work to be performed under this Agreement for a period of 100 days. Within such period of any suspension of work, NWUAV shall (i) cancel the suspension of work order; (ii) terminate this Agreement in accordance with the "Termination" article of this Agreement; or (iii) extend the stop work period.

b) Seller shall resume work upon notice of cancellation of work suspension. NWUAV and Seller shall negotiate an equitable adjustment in the price or schedule or both if (i) this Agreement is not canceled or terminated; (ii) the suspension results in a change in Seller's cost of performance or ability to meet the contract delivery schedule; and (iii) Seller submits a claim for adjustment within 20 days after the suspension is canceled.