



SOUTH AFRICAN AIRWAYS TECHNICAL

PURCHASE ORDER –

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

The following words and expressions appearing in the Purchase Order shall have the following meanings and/or interpretations unless the context requires otherwise:

- 1.1 AOG" means aircraft on ground;
- 1.3 "Approved Agents" means those subsidiaries, affiliates or agents of Seller as approved by Buyer
- 1.4 "Approved Vendor" means a vendor approved by the Buyer;
- 1.4 "Business Day" means each day other than a Saturday, Sunday or proclaimed public holiday in South Africa;
- 1.5 "Buyer" means SAA TECHNICAL (SOC) Ltd South Africa, unless otherwise stated, and includes the legal representatives, successors or assignees of the Buyer
- 1.6 "Buyer's Financial Services Department" means: SAA Technical, SAA Technical, Avionics Building, Private Bag X12, OR Tambo International Airport, 1627, South Africa;
- 1.7 "CIF" means Cost of Insurance and Freight as defined in Incoterms;
- 1.8 "CLP" means the current list price of the manufacturer for the specific Product;
- 1.9 "Delivery Point" means the stores receiving office ("SRO") situated at the main gate to the Buyer's technical area, Jones Road, OR Tambo International Airport;
- 1.10 "Force Majeure" means an exceptional event or circumstance (i) which is beyond a Party's control, (ii) which such party could not reasonably have provided against before accepting this Purchase Order, (iii) which, having arisen, such Party could not reasonably have avoided or overcome and (iv) which is not substantially attributable to the other Party. For the avoidance of doubt, these four conditions are cumulative.
- 1.11 "Goods" means all brand new equipment, materials, machinery, supplies, spare parts, services and work required to be supplied or performed by the Supplier in accordance with the Purchase Order including the delivery, the provision of drawings, documents, manuals, installation, operation and maintenance instructions, spare parts lists and the like relating
- 1.12 ;"Handling Agent" means an agent or freight forwarder as Buyer may designate;
- 1.13 "Incoterms" shall refer to Incoterms 2000, ICC Publication No 560-ISBN 92.842.1199.9, as amended;
- 1.14 "Party" means a party to the Purchase Order and "Parties" means all of them.
- 1.15 "Price" means the agreed amount stated in the Purchase Order and shall include the supply of the Goods and all costs and charges associated with delivery according to Article 5.
- 1.16 "Purchase Order Price" or "Price" means the total financial consideration specified in the Purchase Order and payable to the Supplier for the supply of the Goods in accordance with the Purchase Order, including any further amendment to the initial price agreed by the parties.
- 1.17 "Purchase Order" means the order issued by the Buyer requesting the Supplier to provide the Buyer with the Goods specified under this Purchase Order and according to these general terms and conditions which are completely part of the Purchase Order. Thus, any reference to the Purchase Order includes these General Terms and Conditions and any reference to these General Terms and Conditions includes the Purchase Order.
- 1.18 "Supplier" means the person or company with whom the Purchase Order has been concluded.
- 1.19 "Warranty Period" means the period during which Supplier's guarantees remain in full force in regard to any defect that may affect the Goods. Unless otherwise specified, the Warranty Period shall start on the date of delivery by the Supplier of the Goods until the expiry of a period of eighteen (36) months from the date of delivery or twelve (12) months from the date of installation on aircraft, whichever occurs soonest.

2. ACCEPTANCE

- 2.1 Signing this Purchase Order or commencement of performance of the Purchase Order shall constitute acceptance of the Purchase Order by the Supplier. Acceptance of this Purchase Order is unqualified, unconditional and subject to and expressly limited to the terms and conditions hereof.
- 2.2 The Supplier expressly acknowledges that he read and accepts unconditionally the Purchase Order and especially the included general terms and conditions
- 2.3 The Buyer shall not be bound by any provisions, additional to or at variance with the terms hereof that may appear in Supplier quotation, acknowledgement, confirmation, invoice or in any other communication from the Supplier to the Buyer unless such provision is expressly agreed to in writing and signed by an authorised agent of the Buyer.
- 2.4 The Buyer's acceptance of or agreement for shipped material shall constitute acceptance of such material subject to the provisions hereof only, and shall not constitute acceptance of any counterproposal submitted by the Supplier not otherwise accepted in writing signed by an authorized agent of the Buyer
- 2.5 Upon acceptance and unless otherwise agreed between the Parties, this Purchase Order shall constitute the entire agreement between the Buyer and the Supplier, shall supersede all prior negotiations discussions and dealings and may not be modified or rescinded except in writing and signed by both the Supplier and the Buyer.
- 2.6 The Buyer will send to the Supplier the Purchase Order (included hereby) by a means ensuring Supplier's receipt of such Purchase Order (the "Date of Receipt").
- 2.7 An acknowledgement of this Purchase Order confirming receipt, price and delivery should be sent by return within Twelve (12) hours from the Date of Receipt of this Purchase Order. Signed Acceptance of the Purchase order by the supplier, will be acknowledgement of the SAAT Purchasing General Terms and Conditions.

3. NON-ASSIGNMENT

- 3.1 The Supplier shall not assign, wholly or partly, this Purchase Order and/or any interest herein and/or any payment due and/or to become due hereunder, and shall not subcontract, wholly or partly, the performance of any any work to be done by the Supplier under this Purchase Order without the Buyer's written prior consent.

4 CHANGES AND MODIFICATIONS

- 4.1 The Supplier shall not make any variation to the goods described under this Purchase Order whether by the alteration, amendment, addition to or omission from any of such goods without the prior written consent
- 4.2 The Buyer shall be entitled to alter quantities and/or specifications given in the Purchase Order at any time. If such Buyer-initiated changes affect the Price or delivery time, the Supplier shall give the Buyer written notice to that effect, including a reasonable, good faith assessment of such changes, within 7 calendar days from the date of receipt of the Buyer's notice of change. Failure to send this notice within the 7 calendar days shall be construed as an unconditional and unqualified acceptance of the Supplier to comply with the Buyer's changes, at the delivery time initially accepted or at the terms and conditions specified in the Buyer's notice of change

Any changes in the Price and/or delivery time shall be agreed to in writing by authorized agents of the Parties and on an equitable basis.

5. PRICES AND PAYMENT

- 5.1 Unless otherwise agreed in writing, the Price is fixed and firm and shall include the supply of the Goods and all costs and charges associated with delivery of goods DELIVERY DUTY PAID (DDP) at place of destination
- 5.2 No charges of any kind, including without limitation charges for boxing, packing, loading, bracing, cartage or extra insurance, will be allowed unless specifically agreed to by an authorised agent of the Buyer in writing. Similarly, no changes and/or modifications of the Price or the delivery time are allowed without the prior written consent of the Buyer.

6. INVOICING

- 6.1 All invoices and advice notes must state the Purchase Order number, the description of Goods provided as stated in the Purchase Order and, when applicable, VAT.
- 6.2 Unless otherwise specified, the Buyer shall make payment to the Supplier within (30) days from receipt of statement following receipt by the Buyer of the Supplier's invoice accompanied by all the documents to be provided by the Supplier as mentioned in the Purchase Order or legitimately requested by the Buyer in connection with the Purchase Order.

7. PROGRAMME, DELIVERY & DELAYS

- 7.1 Time is of the essence.
- 7.2 The Supplier shall comply with the delivery time specified in the Purchase Order and/or the Supplier's quotation. If no delivery time is specified in the Purchase Order, the Supplier shall deliver the Goods as soon as reasonably practicable.

If the Supplier fails to complete delivery of the Goods in accordance with the delivery schedule or by the delivery date(s) specified in the Purchase Order and/or the Supplier's quotation, the Buyer shall be entitled to recover from the Supplier the liquidated damages specified in the Purchase Order and any loss or damage as may thereby be incurred or suffered by the Buyer. Unless otherwise agreed, the liquidated damages shall be fixed at 10% of the Price for each day of delay. However, the total amount due under this Article shall not exceed 100% of the Price.

In addition to the liquidated damages aforementioned, the Buyer reserves the right, at its sole option, to obtain supplies elsewhere at the Supplier's risk and cost, to approve a revised delivery schedule, or to terminate

- 7.3 The Supplier shall notify the Buyer immediately in writing if any delay is foreseen and shall take all necessary measures, wholly at its own cost, to maintain the agreed delivery schedule. The Buyer shall be entitled
- 7.4 Unless otherwise agreed or expressly stated otherwise in this Purchase Order, the Goods shall be delivered duty and freight-paid (DDP – Incoterms 2010) at the destination designated by the Buyer. Partial deliveries shall only be permitted to the extent explicitly stated in the Purchase Order. Customs duties and/or any other taxes that may be subject to refund or reimbursement for whatever reason shall be solely for the benefit of the Buyer
- 7.5 If, in accordance with any provision of this Purchase Order, the Supplier is not responsible for the payment of the Customs duties, or any part thereof, imposed in connection with the Goods to be provided under this Purchase Order, then the Supplier shall, and shall procure that any person or company acting on its behalf shall provide all information and documentation necessary for the Buyer to make proper application for any exemptions that are available to the Buyer in relation to the imposition of such customs duties.

8. SPECIFICATIONS

- 8.1 The Supplier expressly warrants that all goods and services covered by this Purchase Order will conform to the specifications, drawings, samples or other description(s) furnished or adopted by the Buyer and will be of good quality, material and workmanship and free from defects. Goods furnished to Supplier as patterns, specifications, drawings or fabricated with these tools shall not be furnished or quoted to any other person or concern and shall not be used except for a purpose in connection with this Purchase Order. Parties expressly agree that this Article 8.1 does not imply any transfer of any kind of Intellectual Property rights by the Buyer to the Supplier

9. PROTECTION OF GOODS

- 9.1 The Supplier shall provide the packing specified in the Purchase Order in order to protect the Goods during their transport to Site. If no packing is specified in the Purchase Order or by the Buyer, the Supplier shall provide the packing usually required for the Goods mentioned in the Purchase Order to ensure a high level of protection during the transport to site.

The packing shall be suitably designed so as to protect the Goods against all possible damage during the transport, unloading, storage (up to 6 months), positioning, installation and fixing phase.

- 9.2 The Supplier shall be solely responsible for any damage to the Goods and costs related thereto resulting from any failure of the Supplier to provide packing pursuant to Article 9.1.
- 9.3 If, in the reasonable opinion of the Buyer, the Goods have not been properly protected pursuant to Article 9.1, the Buyer shall notify the Supplier accordingly. Following such notice the Buyer shall be entitled, at its sole and unfettered discretion, (i) to require that the Supplier immediately provides the required level of protection of the Goods, and/or (ii) make alternative arrangements to provide the level of protection of the Goods that it considers reasonable and to recover as a debt (including deducting from any payment that becomes due to the Supplier) all costs related to and incurred in making such arrangements. The Supplier's responsibility for protection of the Goods under this Purchase Order shall not be reduced or relieved in any way by the provisions of this Article 9.3.

10. SUSPENSION OF PERFORMANCE

- 10.1 The Buyer may at any time, and without affecting the Purchase Order, by written notice to the Supplier, suspend further performance by the Supplier of any part or all of the Purchase Order. Upon receipt of such notice, the Supplier shall promptly suspend further performance and shall, during the duration of such suspension, take proper care of and protect all work associated with the Goods in progress and any materials, supplies and equipment on hand. The Buyer may at any time withdraw by written notice the suspension and the Supplier shall promptly resume and diligently continue performance under the Purchase Order.
- 10.2 If suspension under Article 10.1 reasonably affects the Price and/or delivery schedule, the Supplier shall so notify the Buyer in writing and suggest the necessary changes within 7 calendar days from the notice of suspension. The parties will discuss in good faith the proposed changes in accordance with the provisions of Article 4. In case the Supplier fails to notify the Buyer with these changes resulting from the suspension within the 7 days aforementioned, the Supplier shall be prevented to request any change of the Price and/or of the delivery

schedule resulting from the suspension. The provisions of this Article 10.2 shall apply if and to the extent that any suspension under Article 10.1 is not the result of any default, act or omission of the Supplier.

11. COMPLIANCE WITH LAW

- 11.1 The Supplier warrants that it shall comply with all applicable laws, codes, rules, regulations and directives of governmental and/or any local authorities having jurisdiction over the performance by the Supplier of the Purchase Order, and agrees to indemnify and hold harmless the Buyer and the Buyer's clients from and against any and all liabilities, liens, claims, costs, expenses, losses, damages, penalties and judgments arising from or based on any actual or asserted violation of such laws, codes, rules, regulations and directives.

12. GUARANTEES AND LIABILITIES

- 12.1 In addition to guarantees that may be provided under the Purchase Order or further agreed by both parties, the Supplier guarantees that the Goods will:
- 12.1.1 be new and free from any defect including but not limited to defect in the design, materials and workmanship; and
- 12.1.2 comply with the requirements of this Purchase Order and conform to specifications, drawings and other descriptions provided by the Buyer; and
- 12.1.3 be fit and sufficient for the purpose expressly specified or manifestly implied by the Purchase Order.
- 12.2 If any failure of the Goods to meet the above guarantees is discovered prior to expiry of the Warranty Period, then the Supplier will be notified thereof by Buyer to repair, alter or replace the Goods, within a reasonable period fixed by the Buyer, in order to make the Goods meet the requirements under the Purchase Order. Upon receipt of this notice, the Supplier shall immediately, at its own cost and risk, make such alterations, repairs and replacements as may be necessary for the Goods to meet such guarantees and/or any other requirements under the Purchase Order.
- 12.3 If any deficiency or defect in the Goods cannot be corrected, the defective Goods shall be dismantled and removed by the Buyer or promptly by the Supplier at the cost and risk of the Supplier (at Buyer's option), and the Supplier shall, solely at the Buyer's option, either (i) re-supply proper and compliant materials and/or equipment and reinstall them if necessary, or (ii) refund to the Buyer the full purchase price of the defective Goods, without any prejudice to the rights and/or the remedies that the Buyer may have under the Purchase Order or the laws of The Republic of South Africa.
- 12.4 If the Supplier does not fulfil its obligations under Articles 14.2 and 14.3 above, the Buyer shall, without prejudice to other remedies available to the Buyer, be entitled to have all required alterations, repairs and replacements carried out by any alternative means, including direct arrangements with the Supplier's subcontractors and the Supplier shall be wholly liable for all costs, risks and expenses related thereto.
- 12.5 The Supplier shall be responsible for all costs and expenses, including those incurred by the Buyer, in relation to alterations, repairs and replacements pursuant to Articles 14.2, 14.3 and 14.4, including, without limitation
- 12.6 The Warranty Period for the equipment/material shall be (36) months from shipment or 12 months from installation, whichever comes first.
- 12.7 The Supplier shall not be released from its guarantee obligations under this Purchase Order as a result of any review of, comment upon or approval of the Supplier's engineering designs, specifications
- 12.8 All guarantees and warranties provided by the Supplier in connection with the Goods and/or the performance of the Purchase Order shall extend to the benefit of the Buyer's clients. Buyer's clients shall have the same rights as the Buyer to enforce warranties and guarantees provided by the Supplier under this Purchase Order. The Supplier hereby irrevocably accepts that the Buyer shall have the right to transfer the benefit of such guarantees and warranties to the Buyer's clients at any time
- 12.9 The Supplier shall not be liable for default under guarantees and warranties herein to the extent that the Supplier can prove to the Buyer's reasonable satisfaction that the Goods have either (i) been operated under conditions that are materially different from those specified, described or implied in the Purchase Order or (ii) have been improperly operated or maintained by or on behalf of the Buyer's clients. Such conditions of normal operation and maintenance shall have been clearly stated by the Supplier (and accepted in writing by the Buyer) in documentation submitted to the Buyer under this Purchase Order.
- 12.10 The Supplier shall be responsible for, shall remedy and shall make good at its own cost and risk any defect which arises prior to the expiry of the Warranty Period

13. LIABILITY

- 13.1 The Supplier hereby agrees to assume the risk of and to release, defend, indemnify and hold harmless the Buyer and the Buyer's clients and their employees, subcontractors and gents (hereinafter collectively called 'Indemnatee') without limitation from and against all losses, damages, liability, claims and suits, costs and expenses of whatsoever nature arising out of any injury (including death) to any person or damage to any property resulting from or connected with the performance by the Supplier of the Purchase Order or the Goods supplied hereunder regardless of whether such loss, damage, liability, cost,
- 13.2 Without prejudice to the generality of Article 13.1 above, the Supplier agrees to indemnify and hold harmless Indemnatee without limitation against all costs, expenses, liability, damages or penalties resulting from:

- 13.2.1 pollution (including pollution of soil) or other environmental impairment at the project relating to the Plant caused by Supplier or the Goods;
- 13.2.2 Cases of fraud, deliberate default or reckless misconduct
- 13.2.3 breach by the Supplier of any intellectual property rights;
- 13.2.4 failure by the Supplier to take out and maintain insurance required under the Purchase Order; and
- 13.2.5 breach by the Supplier of any laws applicable to the Supplier's performance of the Purchase Order.
- 13.3 The Supplier assumes sole responsibility for making deductions and payments of payroll taxes, social premiums and other charges he is statutorily obligated to make under applicable laws and regulations as per Article 11 and agrees to indemnify and hold harmless Indemnitee from and against all claims, damages, costs and expenses arising from default, delay or error by the Supplier in this regard.

14. INSURANCE

- 14.1 The Supplier undertakes to have and maintain at its cost during the performance of the Purchase Order the following insurance:
- 14.1.2 All insurance which the Supplier is compulsorily required under applicable laws and regulations as per Article 11 to maintain including employees' compensation insurance and/or Buyer's clients' liability insurance;
- 14.2.2 Insurance covering damage to or loss of the Goods up to the full value thereof, valid during performance of all Supplier's obligations and until transfer of risk to the Buyer as specified herein;
- 14.2.3 Third party liability insurance covering third party property damage and bodily injury and expressly covering the indemnification obligations assumed by the Supplier under Article 16. Unless otherwise specified in the Purchase Order or by the Buyer, the minimum coverage under the third party liability insurance policy shall be ZAR 10,000,000 (ten million Rands) per occurrence. The Buyer shall be entitled at any time to require that the Supplier takes out and maintains insurance with greater limits than specified in this Purchase Order;
- 14.2.4 Automobile liability insurance and insurance for mechanically propelled vehicles if used in connection with the Purchase Order, in conformity with applicable legal requirements and practices as per Article 11.
- 14.3 The Supplier shall provide to the Buyer, at the Buyer's request, certificates of insurance or other documents as evidence of insurance cover to the satisfaction of the Buyer. The Supplier shall notify its insurer(s) of any change in the nature, extent or programme of its performance under this Purchase Order. The Supplier shall not make any alteration to the terms of insurance without giving prior written notice to the Buyer
- 14.4 The Supplier shall obtain from all underwriters providing insurance policies specifically applicable to the performance of the Purchase Order a complete waiver of rights of subrogation by such underwriters against the Buyer and the Buyer's clients and their respective employees and agents.
- 14.5 The Supplier shall use, in respect of any insurance policies specifically obtained pursuant to this Purchase Order, brokers and agents registered in South Africa;
- 14.6 If the Supplier fails to provide or maintain in effect, or to furnish adequate certificate of any of the insurance cover required under this Purchase Order, the Buyer shall be entitled to take out and maintain such cover and to recover.

15. INTELLECTUAL PROPERTY

- 15.1 The Supplier shall grant to the Buyer and the Buyer's clients a non-exclusive, royalty-free, transferable, irrevocable license for all intellectual property, including relevant patents, trademarks, copyright and know-how owned by the Supplier for the use, operate and sale of the Goods.
- 15.2 The Supplier shall indemnify and hold harmless the Buyer from and against all costs, expenses (including attorney's fees), suit or proceeding brought against the Buyer and/or the Buyer's clients based on a claim; claim that the sale or use of the Goods constitutes infringement, whether statutory or contractual, of any patent, copyright, trademark, proprietary information or intellectual property of others.
- 15.3 The Supplier shall be notified in writing by the Buyer and/or the Buyer's clients on receipt of such suit or infringement claim and the Supplier shall take over at its cost the defence of such claim, suit or proceeding. In the event it is determined in the suit that the use or sale of Goods constitutes infringement as aforesaid, the Supplier shall at its cost either secure for the Buyer and the Buyer's clients the right to sell or use the Goods or replace the same with other Goods which have similar specifications but which do not infringe any patent, copyright, trademark, proprietary information or intellectual property of others;

16. CONFIDENTIAL INFORMATION

- 16.1 The Buyer has developed and possesses certain proprietary information, know-how, trade secrets and business information, including process and information related to the Purchase Order, referred to collectively as "Proprietary Information". Any "Proprietary Information" made available by the Buyer and/or the Buyer's clients to the Supplier in connection with the Purchase Order and/or the project relating to the Plant shall not be copied, reproduced, used or disclosed to any third party except as authorized in writing by the Buyer. The Supplier shall not divulge the existence of the Purchase Order or the name of the Buyer or the Buyer's clients for any purpose whatsoever without the prior written approval of the Buyer, except

- in the proper performance of this Purchase Order, The Supplier undertakes to obtain the same confidentiality agreements from his subcontractors as set forth herein. The Supplier agrees to promptly return to the Buyer on his request all documents and copies thereof furnished by the Buyer or the Buyer's clients in connection with the Purchase Order and/or the Project;
- 16.2 The Buyer is willing to disclose to the Supplier part of the Proprietary Information, but only on a confidential basis and subject to the following conditions: (i) Supplier shall use any and all of the Proprietary Information solely for the purpose of carrying out the Purchase Order; (ii) the Supplier shall maintain secret and confidential all Proprietary Information disclosed to it by the Buyer and shall not permit the disclosure of Proprietary Information to others or use by a third party; (iii) the Supplier shall limit the disclosure of Proprietary Information received by it to those of its officers and employees whose skills are needed for carrying out the Purchase Order and shall permit only those officers and employees access thereto; (iv) No right or license under any patent, trademark or trade secret now or hereafter owned or controlled by the Buyer shall be implied as having been granted to the Supplier by the disclosure of Proprietary Information or by any other activity under the Purchase Order; (v) Any material containing Proprietary Information submitted to the Supplier by the Buyer under the Purchase Order shall at all times remain the property of Buyer. The Supplier shall not make or retain any copies thereof without the Buyer's prior written permission and shall return such material to the Buyer promptly upon request.

17. RIGHTS, TITLE AND RISK

- 17.1 Ownership of, title to and copyright in all specifications, drawings, and other documents prepared by the Supplier under the Purchase Order shall vest in the Buyer and/or the Buyer's clients, and the Buyer and/or the Buyer's clients shall have the right to use such specifications, drawings and other documents for any purpose whatsoever without any obligation of any kind to the Supplier. The Supplier shall procure that any of such rights and titles (together with the obligations relating thereto), which the Supplier may have acquired directly or through its subcontractors from third parties, if required by the Buyer and/or the Buyer's clients, are assigned;
- 17.2 Title to and risk of loss of the Goods or part thereof shall pass to the Buyer or the Buyer's clients upon the signature of Buyer's representative (or other person authorized by Buyer for this purpose) following, and in confirmation of, delivery of the Goods or such part thereof in the way and at the point specified in the Purchase Order. The Buyer's confirmation of delivery of the Goods, or part thereof, pursuant to this Article 17.2 shall not constitute final acceptance of the Goods by the Buyer and shall not release the Supplier from any guarantees or obligations under this Purchase Order;
- 17.3 In the event pre-payment or partial payments have been made by the Buyer to the Supplier before transfer of title pursuant to Article 17.2, and the Buyer reasonably determines or believes that the Supplier has, or will have financial or other problems which may lead to material default by the Supplier, full title to the Goods shall pass to the Buyer, without any further requirement, deed or legal act to be met or performed, and without transfer from the Supplier to the Buyer of any risk whatsoever in the Goods, on the date of issue of a written notice by the Buyer to the Supplier stating that title to Goods shall pass. Nothing in this Article 17.3 shall diminish or cancel the entitlement of the Supplier to receive payment for Goods in accordance with the provisions of the Purchase Order.

18. LIENS

- 18.1 The Supplier warrants that the Goods shall be free from all liens, claims, charges or encumbrances and agrees to indemnify and hold harmless the Buyer and the Buyer's clients from and against costs, expenses and claims arising therefrom. The Supplier waives all rights of lien against any property and premises of the Buyer and the Buyer's clients. The Buyer may require the Supplier to submit a signed release of liens before making final payment to the Supplier.

19. TERMINATION FOR DEFAULT

- 19.1 In the event Supplier is in default or breach of any provision, condition or requirement of the Purchase Order, including failure to deliver the Goods on or before the dates for delivery set out in the Purchase Order, the Buyer and the Supplier agree to use their best efforts to negotiate and carry out any appropriate measures that may be taken to mitigate the effect of such default/breach. If negotiations are not successful the Buyer may, by written notice to the Supplier, and without prejudice to any other rights which the Buyer may have, including the application of liquidated damages under Article 7.2, terminate the Purchase Order in whole or in part;
- 19.2 If Supplier is declared bankrupt or becomes insolvent, or makes any arrangement with its creditors, or has a receiver appointed, or commences any action to wind up its business, the Buyer may, without prejudice to its other rights, terminate the Purchase Order forthwith by written notice to the Supplier or to any person in whom the Purchase Order may have become vested. In such an event, the Buyer and/or the Buyer's clients are entitled to forthwith take possession of the Goods;
- 19.3 Upon receipt of a notice of termination pursuant to Articles 21.1 or 21.2, the Supplier shall promptly stop performance under part or all of the Purchase Order as directed by the Buyer, place no further orders or subcontracts, cancel existing orders and subcontracts on terms approved by the Buyer, protect and safeguard work completed and, if directed by the Buyer, shall either (i) deliver the Goods or part thereof completed as of the date of termination, (ii) provide unencumbered access to the Supplier's premises to enable the Buyer to take possession of such completed Goods or part thereof, or (iii) continue performance on such part of the Purchase;
- 19.4 In the event the Supplier is in default as mentioned under Article 21.1 and/or in the event of termination pursuant to this Article 21, the Buyer has unconditional right to have the Purchase Order performed and completed by such means as the Buyer may decide (such as performance by another Supplier or by subcontractor of the Supplier). The Supplier shall be liable for,

and agrees that the Buyer may set-off against any amount due to the Supplier, all additional costs which the Buyer may incur by doing so and other damages suffered by the Buyer due to the Supplier's failure. The Supplier hereby grants the Buyer the right to make direct payments to, and arrangements with subcontractors of the Supplier if the Buyer considers such payments and arrangements necessary for the uninterrupted completion of the Purchase Order.

20. TERMINATION FOR CONVENIENCE

- 20.1 The Buyer shall be entitled, at any time, to terminate the Purchase Order in part or in whole by written notice to the Supplier. Upon receipt of such notice, the Supplier shall promptly stop further performance of the Purchase Order, place no further orders or subcontracts with subcontractors, protect the Goods or part thereof which has been completed both in the Supplier's premises and in the premises of its subcontractors and await further instructions from the Buyer;
- 20.2 In the event of termination pursuant to Article 22.1:
- 20.2.1 The Supplier shall deliver or assign to the Buyer all Goods completed at the date of such termination with all applicable warranties or dispose of Goods, as directed by the Buyer. In no event shall the Buyer and/or the Buyer's clients be liable to the Supplier for any special, indirect or consequential damages of any kind whatsoever including but not limited to loss of production, loss of business, income or profit and damages arising from claims against the Supplier by its subcontractors or its other customers; and
- 20.2.2 The Supplier shall be entitled to payment of an amount equal to the value of the Goods satisfactorily completed in accordance with the Purchase Order at the date of such termination, , less any payments owed.

21. FORCE MAJEURE

In this Article, "Force Majeure" means an exceptional event or circumstance:

- (a) which is beyond a Party's control;
- (b) which such Party could not reasonably have provided against before entering into the Contract,
- (c) which, have arisen, such Party could not reasonably have avoided or overcome, and
- (d) which is not substantially attributable to the other Party.

Force Majeure includes, but is limited to exceptional events or circumstances listed below, so long as conditions (a) to (d) above are satisfied:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war,
- (iii) riot, commotion, disorder, strike or lockout by persons other than the Supplier's personnel and other employees of the Supplier,
- (iv) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Supplier's use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

21.2 In such a case, Parties shall negotiate and work together to minimise impacts of the Force Majeure on the Goods;

21.3 If the execution of the Purchase Order is prevented for a continuous period of fifteen (15) days by reason of Force Majeure of which notice has been given under Article 23.1, or for multiple periods which total more than thirty (30) days due to the same notified Force Majeure, then either Party may give to the other Party notice of termination of the Purchase Order. In this event, the termination shall take effect two (2) days after the notice is given.

Upon such termination, the Buyer shall pay to the Supplier the amounts payable for any Goods delivered in accordance with the Purchase Order.

22. ASSIGNMENT AND NOVATION

22.1 The Supplier acknowledges and agrees that the rights and obligations of the Buyer may be novated to the Buyer's clients, its successors and assigns upon the Buyer's client's written request following termination of the Main Contract; and the Buyer may assign the Purchase Order and any rights under it (or any part of it) to the Buyer's clients and/or to the Lenders.

23. RIGHT TO SET OFF

23.1 All costs, damages or expenses for which the Supplier is liable to the Buyer under the Purchase Order and/or the law, may be deducted by the Buyer from any payment due or becoming due to the Supplier under this Purchase Order, or may be recovered by action at law.

24. DISPUTES

24.1 The Parties agree to attempt to resolve any dispute, controversy, difference or claim arising out of the terms of this Purchase Order (the "Dispute") by using their best efforts to negotiate and settle amicably such Dispute. If, after thirty (30) days of it arising, any such Dispute cannot be settled amicably through ordinary negotiations by senior representatives of the Buyer and the Supplier, the Parties shall submit the dispute to AFSA administered mediation, upon the terms set by the AFSA Secretariat. If the other Party does not wish to proceed to mediation, they may indicate so within 15 days after receipt of the notice from the proposing Party. A Party is not obliged to proceed with mediation. However, the Parties agree that such Party who refuses to proceed with mediation shall therefore accept to incur a higher cost allocation of the arbitration fees.

Should mediation not succeed, any dispute, controversy or claim, arising out of or in connection with this Purchase Order shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation.

24.2 The number of arbitrators shall be three. The place of arbitration shall be Sandton, GAUTENG. The language to be used in the arbitral proceedings shall be English. The award shall be binding from the date it is made, and the Parties hereby waive any right of appeal on the merits and/or any point of law. The appointing authority shall be the AFSA secretariat. The commencement of formal Dispute resolution proceedings shall not prevent further initiatives by either Party to settle the Dispute;

24.3 Performance of this Purchase Order shall continue during the period of resolution of any Dispute and such performance shall include the execution of any part of the works or the Goods which is subject to disputed instructions;

24.4 The rights and remedies available to the Buyer herein are cumulative and additional to other or further remedies available under equity and law. No relaxation, forbearance, delay or indulgence by the Buyer in enforcing any of the terms and conditions of this Purchase Order or the granting of time by the Buyer to the Supplier shall prejudice, affect or restrict the rights of the Buyer under this Purchase Order, nor shall any waiver by the Buyer of any breach of this Purchase Order operate as a waiver of any subsequent or continuing breach of this Purchase Order.

25. APPLICABLE LAW

25.1 The Purchase Order shall be governed by the Laws of South Africa excluding the application of the Vienna Convention on the International Sale of Goods of 1980. Unless otherwise agreed upon, the English language is the ruling language for all aspects of the Purchase Order.

26. SPARE PARTS

26.1 Spares will be ordered on a separate order;

26.2 In the event that the Supplier intends to cease manufacture of any spare parts at any time and where these are not readily available on the open market, the Supplier shall give not less than sixty (60) days prior written notice to the Buyer to that effect and the Supplier agrees that following such notice the Buyer and/or the Buyer's clients can then either (i) purchase from the Supplier at reasonable cost such quantity as the Buyer and/or the Buyer's clients consider necessary or (ii) purchase from Supplier at reasonable cost drawings, moulds, licence and all necessary material, rights and information to enable the Buyer and/or the Buyer's clients to procure the manufacture and import by others such spare parts as the Buyer and/or the Buyer's clients considers necessary for the operation of the Plant.

27. QUALITY ASSURANCE AND CONTROL

27.1 The SUPPLIER must ensure that the Goods are delivered along with all documentation necessary for the quality certification, operation, use and maintenance of such Goods, except to the extent such documentation has already been provided or as otherwise agreed with SAAT.

27.2 All goods shall be accompanied as required with a Certificate of Conformance and where applicable the Material Data Safety Sheet, FAA8130-3 and EASA Form 1.

27.3 Documentation confirming goods have in excess of 75% Shelf life left on date of delivery.

- 27.4 All goods and/or work performed shall be in compliance with the FAA/EASA Regulations and the parts be approved by FAA and EASA. The aircraft parts must have complete traceability thereto.
- 27.5 Supplier shall be approved by the SACAA and provided its Operational Specifications and Capability tests for those specified in the applicable regulations.