

ULTRA ELECTRONICS MARITIME SYSTEMS INC. STANDARD TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS

- a) "Claims" means all losses, liabilities, costs, charges, claims, allegations, actions, proceedings, suits, damages, demands, expenses, encumbrances and liens (including all legal expenses on a solicitor and client basis), whether arising by contract, in tort, or otherwise.
- b) "Order" means any purchase order issued by Ultra to Seller (a "Purchase Order"), together with any attachments and documents generated by Ultra that accompany or are incorporated into or form part of the purchase order, and these terms and conditions of purchase.
- c) "Seller" shall mean the party identified on the face of the Purchase Order with whom Ultra is contracting.
- d) "Specifications" means the specifications, drawings, samples, designated type, part number, or catalog description, and the other technical codes and specifications for the products and/or services covered by this Order.
- e) "Ultra" means Ultra Electronics Maritime Systems Inc., with offices at 40 Atlantic Street, Dartmouth, NS B2Y 4N2 Canada.

Other terms may be defined within these terms and conditions of purchase

2. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

- a) This Order constitutes the complete and exclusive statement of the terms of the agreement between Ultra and Seller, and this Order supersedes all prior contemporaneous written or oral representations, understandings and communications thereto.
- b) Additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgement of this Order shall have no effect unless expressly accepted in writing by Ultra, regardless of whether or not such terms and conditions materially alter this Order and irrespective of any payment by Ultra under the terms if this Order.
- c) Seller's acknowledgement of this Order, acceptance of payment (either partial or full), or commencement of performance if its obligations under this Order shall constitute Seller's unqualified acceptance of this Order.
- d) Modifications or additions to this Order, to be effective, must be made in writing and be signed by Ultra's authorized representative.
- e) In the event this Order does not state price or terms of delivery, Ultra will not be bound to any prices or terms of delivery to which it has not specifically agreed to in writing.

3. ORDER OF PRECEDENCE

- a) In the event of any inconsistency or conflict between or among the provisions of these terms and conditions of purchase and any other document forming part of this Order, such inconsistency or conflict shall be resolved by the following, in descending order of preference:
 - i. Typed provisions set forth on the face of the Purchase Order;
 - ii. Documents incorporated by reference by Ultra on the face page(s) of the Purchase Order;
 - iii. These standard terms and conditions of purchase;
 - iv. Any non-disclosure agreement executed by Ultra and Seller;
 - v. Ultra's statement of work; and
 - vi. Ultra's Specifications attached hereto or incorporated by reference.
- b) The Specifications provided by Ultra shall prevail in the event of any conflict or inconsistency over the Specifications provided by the United States or Canadian Government, and all of the foregoing shall prevail over the Specifications of Seller.
- c) In cases of ambiguity in the Specifications, Seller must, before proceeding, consult Ultra, whose written interpretation of the Specifications shall be final and binding.

4. SELLER'S REPRESENTATIONS AND COMPLIANCE WITH LAWS

Seller represents and warrants that:

- a) it is duly organized as a business corporation, is validly existing and in good standing under the laws of the jurisdiction of its incorporation;
- b) it is duly licensed or qualified and is in good standing wherever necessary to carry on its business;
- c) it has the power and authority and all necessary licenses and permits to carry on its present business and operations and to perform its obligations under this Order;

Seller will comply with and observe all applicable laws, orders, statutes, rules, decrees, regulations, by-laws, ordinances, ministerial orders, rules and specifications and standards that have application to this Order and the performance by Seller of its obligations under this Order.

5. EXPORT CONTROL

Seller agrees to comply with all import, export control and sanction laws, regulations, orders and requirements, as may be amended from time to time, which are applicable the performance of its obligations under this Order, including, without limitation, those of the United States (such as the *Arms Export Control Act* and the *Export Administration Act*), Canada (such as the *Defence Protection Act*), the European Union and any other jurisdiction in which Seller is established or from which items may be supplied, and the requirements of any licenses, authorization, general licenses or license exceptions relating thereto. Seller further agrees that all classified information and/or material (including classified waste) generated by, or put at the disposal of, Seller will be stored, handled, transmitted, safeguarded and destroyed in accordance with the following: (i) if Seller is located in Canada, such information shall be handled in accordance with the Canadian Industrial Securities Manual (ISM), including all amendments and supplements thereto; and (ii) if Seller is located in countries other than Canada, such information shall be handled in accordance with its country's national industrial security policy but in any event in accordance with requirements at least as restrictive as those in the Canadian ISM, including all amendments and supplements thereto. Compliance with such export control restrictions shall include, but not be limited to, Seller obtaining, at its sole cost, any and all export license(s), manufacturing license agreements, technical assistance agreements, or other export control license/agreement necessary for the performance of its obligations under this Order. Seller shall indemnify and hold harmless Ultra from any and all Claims relating to violations of such export control restrictions.

6. GOVERNING LAW

This Order and any subsequent changes thereto shall be construed and enforced in accordance with the laws of the Province of Nova Scotia.

7. WARRANTIES

- a) Seller expressly warrants that all goods delivered and services performed pursuant to this Order will be free from defects in material and workmanship and will conform to the Specifications, and, to the extent such goods are not manufactured pursuant to detailed designs furnished by Ultra, that all goods will be free from defects in design, are merchantable, fit and suitable for the intended purpose or use, and are new and unused. The warranty shall begin upon final acceptance by Ultra or Ultra's customer, as the case may be, and extend for a period of two years from such acceptance or the manufacturer's warranty period, whichever is longer.
- b) If any non-conformity with the Specifications appears within the warranty period set out in the immediately preceding paragraph, Seller, at Ultra's option, shall promptly repair or replace the goods or re-perform the services all at Seller's risk and expense. Transportation of replacement goods, return of non-conforming goods, and/or repeat performance of services shall be at Seller's expense. In addition to Ultra's right under *Article 21 PENALTIES*, if repair or replacement of goods and/or re-performance of services is not timely, Ultra may elect to return the nonconforming goods or repair or replace goods or re-procure the goods at Seller's expense. If non-confirming goods are replaced by Seller pursuant to this provision hereunder, the warranty terms as defined in this Section will be renewed for

such replacement articles. If Ultra does not require correction or replacement of nonconforming or defective goods, Seller shall repay the portion of this Order relating to the non-conforming goods.

- c) Acceptance or inspection of goods by Ultra or payment therefore shall not relieve Seller of its responsibilities under this section.
- d) The warranties of Seller, together with its service warranties and guarantees, if any, shall be for the benefit of Ultra, as well as for Ultra's successors, assigns and customers.
- e) Seller shall be liable for, and save Ultra harmless from, any Claims that Ultra may suffer from breach of any of these warranties.

8. CHANGES

- a) Ultra may, in writing, from time to time, order the suspension of work under this Order or make changes in quantities, drawings, designs, form, fit, function, Specifications, services, place of delivery, or delivery schedules, methods of shipment and packaging, and property furnished by Ultra. If any such change causes an increase or decrease in the price of this Order, or in the time required for the performance of the obligations of Seller, Seller shall promptly notify Ultra thereof and assert its claim for adjustment within ten days after the change or suspension is ordered. Ultra and Seller shall negotiate an equitable adjustment and this Order shall be amended in writing accordingly. However, nothing in this clause shall excuse Seller from proceeding immediately with this Order, as changed by the notice from Ultra, pending resolution of Seller's claim. Whether made pursuant to this clause, or by mutual agreement, changes requested by Ultra shall not be binding upon Ultra except when confirmed in writing by an authorized representative of Ultra.
- b) Information, advice, approvals or instructions given by Ultra's technical personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect Ultra's and Seller's rights and obligations under this Order unless set forth in writing and signed by Ultra's authorized representative and which states it constitutes an amendment or change to this Order.
- c) Seller shall not make any changes to form, fit, or function of goods or make any changes to any manufacturing processes whatsoever for the duration of this Order without prior written approval from Ultra.

9. INFRINGEMENT INDEMNITY

- a) Seller represents and warrants that the sale, use, or incorporation into manufactured products of all machines, parts, components, services, devices, material, goods, and rights furnished or licensed hereunder which are not of Ultra's design, composition, or manufacture will not infringe any patent, copyright, trademark, or other proprietary rights. Seller shall indemnify and save Ultra and its customers harmless from any and all Claims arising from claims, suits, or actions alleging such infringement. Seller may modify or replace with comparable non-infringing goods acceptable to Ultra of substantially same form, fit and function so as to remove the source of infringement, and shall extend this provision thereto. If the use or sale of any of the above items is enjoined as a result of such claim, suit or action, Seller, at no expense to Ultra, shall obtain for Ultra and its customers the right to use and sell said item.
- b) Any invention or intellectual property first made or conceived by Seller in the performance of this Order or which is derived from or based on the use of information supplied by Ultra or which is paid for by Ultra shall be the property of Ultra; and Seller shall execute any documents necessary to perfect Ultra's title thereto.

10. SELLER'S DATA

Seller agrees that any documents, such as prints or any printed or written material containing instructions, data, or information, provided to Ultra in connection with this Order, shall be free from confidential, proprietary, or restrictive use marking, other than bona fide statutory patent, trademark and copyright notices, or any government or security notices. Ultra, its customers, agents or assigns, may duplicate or use such documents in connection with further manufacture, use, or disposition of the material furnished under this Order, and may remove, or ignore any marking on such documents not authorized by this clause.

11. PROPERTY RIGHTS

All goods, materials, drawings, tools, jigs, dies, fixtures, and other items furnished by Ultra or Ultra's customers to Seller or paid for by Ultra to perform this Order, shall be and remain the property of Ultra or Ultra's customer, as the case may be. Seller shall bear the risk of loss of, or damage to, such property, as applicable, except for normal wear and tear, and such property shall not be used by Seller for any purpose other than the performance of this Order unless Ultra otherwise consents in writing, nor shall Seller substitute any other material therefore. Upon completion of work and use of such property, and/or upon the written request of Ultra, such property shall be immediately released to Ultra, or delivered to Ultra by Seller in accordance with Ultra's shipping instructions. In the event Seller fails to return such property to Ultra, Ultra shall have the right, upon reasonable notice to Seller, to enter Seller's premises at any time and remove any such property and Seller's records thereto without liability for trespass or damages of any sort.

12. PROPRIETARY INFORMATION, DUPLICATION, AND DISCLOSURE

- a) Seller agrees that any information disclosed by Ultra to Seller in connection with this Order, whether identified by Ultra as proprietary or not, shall be held in strict confidence and shall be used by Seller only in performance of this Order. Upon completion or termination of this Order, Seller shall return all such information to Ultra or make such other disposition thereof as may be directed or approved by Ultra.
- b) No information or materials furnished under this Order, or tools, plans, designs, or specifications for producing the same, which have been specifically designed for or by Ultra, shall be duplicated or furnished to any third party without prior written consent of Ultra.
- c) Seller represents and warrants that it has obtained or it agrees to obtain appropriate agreements with all of its personnel, agents or contractors and any other person or entity performing work on behalf of Seller relating to performance of this Order, confirming that all such personnel, agents or contractors shall assume the same obligations and responsibilities towards Seller as outlined herein.

13. PUBLICITY

Unless Ultra gives prior written consent to Seller, Seller shall not, in any manner, advertise, publish, distribute, or use any information developed under or about the subject matter of this Order, or use, reproduce or imitate for any purpose whatsoever any trademarks or tradenames of Ultra in Seller's advertising materials, promotional materials or in other materials available to the public. No news release in any way relating to Ultra concerning this Order shall be made by Seller to any news media or the general public without the prior written consent of Ultra. Seller shall not disclose the existence of this Order to any other party without the prior written consent of Ultra.

14. ASSIGNMENTS AND SUBCONTRACTING

- a) This Order may not be assigned, in whole or in part, by Seller without the express written consent of Ultra. Any purported assignment by Seller without such consent shall be void.
- b) Ultra may assign this Order to (i) any affiliated company, (ii) any successor in interest, or (iii) Ultra's customer. Ultra shall have the right at any time to set off any amount owing from Seller to Ultra or Ultra's subsidiaries and/or affiliates against any amount due and owing to Seller or any of its subsidiaries pursuant to this Order or any other contractual agreement between Ultra and Seller or their respective subsidiaries and/or affiliates.
- c) Seller shall not subcontract all or substantially all work on any of the goods to be supplied or services to be performed under this Order, without prior written approval of Ultra. This provision shall not apply to purchases of standard commercial articles, or raw materials, including castings, forgings, and rough welded structures on which Seller will perform further work.
- d) Upon request by Ultra, Seller shall provide written evidence to Ultra verifying that subcontractors have been paid.
- e) Seller will keep Ultra's premises free and clear of all mechanics' or builders' liens. Ultra shall have the right to order Seller, in writing, to discharge forthwith any liens of whatever type placed on Ultra's premises or work being performed on Ultra's premises or goods being supplied under this Order, whether or not such liens

constitute valid claims and Seller shall assume the cost of discharging such liens. Further, Ultra shall have the right at any time to pay or to discharge any liens placed on Ultra's premises for work being performed at Ultra's premises or goods supplied under this Order, whether or not such liens constitute valid claims and to deduct the costs of discharging such liens from the amount due to Seller.

15. TERMINATION FOR CONVENIENCE

Ultra may, by written notice to Seller, terminate the whole or part of this Order at its convenience upon thirty (30) days written notice. Seller shall not be excused from the performance of any portions of this Order not terminated. Ultra shall pay Seller for all work completed to the date of termination, together with Seller's actual, reasonable, and substantiated out of pocket costs and expenses related to this Order for obligations of Seller which cannot be terminated prior to the termination of this Order (the "Termination Costs"), and Ultra shall be entitled to take immediate possession of all work so performed. In no event shall such Termination Costs include any consequential, indirect, or punitive damages, the costs of removal and reinstallation of items, loss of goodwill, loss of third party revenues or profits, loss of use, injury to persons or property. Seller shall provide Ultra with any claims for Termination Costs within a reasonable time period after this Order is terminated but in any event no later than thirty (30) days after the effective date of such termination. Further, upon such termination, Seller agrees that any and all rights, title, and interest in and to any intellectual property developed in accordance with Article 9(b) herein will be immediately vested in Ultra, and any and all limitations on the use thereof by Ultra shall be immediately deemed null and void.

16. TERMINATION FOR DEFAULT

- a) Ultra may, subject to the provisions of paragraph *Article 18 Force Majeure*, by written notice of default to Seller, terminate the whole or part of this Order in any one of the following circumstances: (i) if Seller breaches any of the terms and conditions of this Order, (ii) if Seller fails to make delivery of the goods or to perform the services within the time specified in this Order or in any written extension or modification of this Order; or (ii) if Seller fails to perform any of the other provisions of this Order, or so fails to make progress as to endanger performance of this Order in accordance with its terms; or (iv) if Seller fails to replace or correct defective articles in accordance with the provision of *Article 7 WARRANTIES*. Termination of this Order shall be effective if Seller does not cure the event(s) of default within a period of ten (10) days (or such longer period as Ultra may authorize in writing) after delivery of notice by Ultra to Seller describing the event of default. For further certainty, in the event that this Order provides for the furnishing of items in more than one lot, this Order, including all lots, may be terminated under the circumstances described above.
- b) In the event Ultra terminates this Order in whole or in part as provided in paragraph (a) of this clause, Ultra may procure, upon such terms and in such manner as it may deem appropriate, goods or services similar to those so terminated, and Seller shall be liable to Ultra for the costs of such goods or services plus any excess costs reasonably incurred for such similar goods or services; provided, that Seller shall continue the performance of this Order to the extent not terminated under the provisions of this clause.
- c) If this Order is terminated as provided in paragraph (a) of this clause, Ultra, in addition to any other rights provided in this clause, may require Seller to transfer title to and deliver to Ultra, in the manner and to the extent directed by Ultra, (i) any completed goods, and (ii) such partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "Manufacturing Materials") as Seller has specifically produced or specifically acquired for the performance of such part of this Order as has been terminated; and Seller shall, upon direction of Ultra, protect and preserve property in possession of Seller in which Ultra has an interest. Payment for completed goods delivered to and accepted by Ultra shall be at this Order price. Payment for Manufacturing Materials delivered to and accepted by Ultra, and for the protection and preservation of property, shall be in an amount agreed upon by Ultra and Seller, or, failing agreement, the amount determined by arbitration under *Article 29 Disputes*.
- d) If, after notice of termination of this Order under the provisions of paragraph (a) of this clause, it is determined by Ultra that the failure to perform this Order is due to causes beyond the control of and without fault or negligence of Seller, and despite the exercise of utmost diligence by Seller or its subcontractor(s) pursuant to

the provisions of *Article 18 Force Majeure*, such notice of default shall be deemed to have been issued pursuant to the clause of this Order entitled "Termination for Convenience", and the rights and obligations of Ultra and Seller shall, in such event, be governed by such clause.

- e) The rights and remedies of Ultra provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Order.

17. TERMINATION ON ACCOUNT OF INSOLVENCY

The Ultra may terminate this Order immediately upon notice in the event Seller becomes insolvent, makes an assignment for the benefit of its creditors, or if a receiver is appointed for Seller on account of its insolvency or is unable to pay its debts in the ordinary course of business. Ultra may treat such termination as default by Seller and in such event, the rights and obligations of Ultra and Seller shall be governed by *Article 16 TERMINATION FOR DEFAULT*.

18. FORCE MAJEURE

Except with respect to defaults of Seller's subcontractors, Seller shall not be liable for any excess costs, if the failure to perform this Order arises out of a Force Majeure Event (as defined below), provided Seller gives Ultra written notice of such Force Majeure Event within twenty days of the occurrence thereof and provided Ultra agrees that such cause constitutes a Force Majeure Event. A "Force Majeure Event" includes, but is not limited to an act of God or the public enemy, act of a government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, and freight embargoes or other event beyond the control of, without the fault of negligence of, and despite and exercise of utmost diligence by, Seller. If the failure to perform is caused by default of Seller's subcontractor, and if such default arises out of cause beyond the control of both Seller and its subcontractor, and without the fault or negligence of, and despite the exercise of utmost diligence by either of them, Seller shall not be liable for any excess costs for failure to perform, unless the goods or services to be furnished by Seller's subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedule.

19. COMPLIANCE WITH DELIVERY SCHEDULE

- a) Time shall be of the essence hereunder.
- b) Shipment and delivery of goods or rendering of services must be effected within the time stated in this Order or as may be otherwise mutually agreed in writing.
- c) Unless Ultra agrees in writing, deliveries of goods more than ten business days prior to the date specified in this Order may be received by Ultra and payment postponed until the date payment would have been due, or Ultra is entitled to refuse to accept such delivery without liability for any loss, damage or expense incurred or sustained by Seller, including costs of returning, storing or reshipping articles.
- d) Unless Ultra otherwise agrees in writing, deliveries of goods after the date specified in this Order are not permitted. Seller agrees that in the event deliveries of the goods or performance of the services called for in this Order are not made within the time specified in this Order or any authorized extension to this Order, and Ultra requests in writing that Seller perform overtime, weekend or holiday work, or establish additional shifts of personnel to perform the work, Seller shall comply with said requests by Ultra or take such other action as is considered appropriate by Ultra to regain current delivery schedule status, at no change to the prices as established in this Order. Notwithstanding the foregoing, and unless otherwise agreed by Ultra in writing, Ultra reserves the right, at its sole discretion, to charge penalties in accordance with *Article 21 Penalties* and to return such late deliveries at Seller's cost and/or deduct any and all shipping costs and other related fees incurred by Ultra for both the return and reshipment of the goods, from Seller's account and/or terminate this Order for default. Ultra shall not have the right to request such overtime work without additional compensation to Seller, if Seller's failure to meet the established delivery schedule provided for herein is due to causes beyond the control and without the fault or negligence of Seller as defined in clause *Article 18 Force Majeure*.
- e) The rights afforded to Ultra in the foregoing paragraphs shall not be exclusive and are in addition to any other rights provided by law or under this Order.
- f) Seller agrees to notify Ultra immediately if, at any time, it appears that the delivery schedule set forth in this Order may not be met. Such notification shall include the reasons for any possible delays, and steps being taken to remedy any such problems. Further, this notification shall be in addition to any reporting

requirements specified elsewhere in this Order. The requirements for notification set forth above are not to be construed as a waiver of the delivery schedule set forth in this Order and shall not prejudice Ultra's right under any other clause of this Order at law or in equity.

20. TITLE AND RISK

Title to and risk for goods shall pass to Ultra upon delivery in accordance with the requirements of this Order.

21. REMEDIES IN THE EVENT OF DELAY IN DELIVERY

- a) The obligation to deliver the goods and to perform the services in accordance with the delivery schedule in this Order is a material term and is an essential and primary obligation of Seller to be performed. Seller recognizes that in the event of delay of the delivery of goods by Seller, Ultra may suffer harm, and that any such harm arising by reason of Seller's delay would be difficult to determine accurately. In the event that Seller may consider that the delivery dates may not be achieved for any reason whatsoever, then Seller's obligations shall be in accordance with Article 19(f) of these terms and conditions of purchase. Notwithstanding the foregoing, in the event of any delay in the delivery of the goods or performance of services in accordance with the delivery schedule set out in this Order, unless such delivery schedule has been amended by mutual agreement of Ultra and Seller, Seller shall, in Ultra's sole discretion, pay to Ultra as liquidated damages, and not as a penalty 0.5% of the value of the delayed goods or services for each full calendar week of delay for the first two weeks of delay, and 1% of the value of the delayed goods or services for each full calendar week of delay thereafter. Notwithstanding the foregoing, the maximum amount of the liquidated damages payable under this paragraph is limited to 10% of the value of this Order. The liquidated damages payable under this paragraph will be invoiced separately by Ultra to Seller. In such invoice, Ultra shall cite all the relevant circumstances, and the deliveries involved that has given rise to such liquidated damages.
- b) Notwithstanding the aforementioned provisions, in case the cause of the delay shall persist for six weeks or more, and where Ultra and Seller have been unable to reach agreement within this period on a revision of the delivery schedule, Ultra shall be entitled, after written notice to Seller, to terminate any Order in accordance with the provisions of *Article 16 Termination for Default*.
- c) Notwithstanding the rights of Ultra due to Seller's delivery delays, the payment of liquidated damages shall not relieve Seller from its other contractual obligations to Ultra.
- d) This *Article 21 Remedies in the Event of delay in Delivery* shall not apply while Seller's failure to deliver was due to a Force Majeure Event.

22. DAMAGES

IN NO EVENT SHALL ULTRA BE LIABLE TO SUPPLIER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR ECONOMIC DAMAGES (INCLUDING, BUT NOT LIMITED TO LOST PROFITS AND LOST BUSINESS OPPORTUNITY), REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH DAMAGES ARE SOUGHT, AND EVEN IF ULTRA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

23. QUALITY CONTROL

Seller shall provide and maintain a quality control system to an industry recognized quality standard, in compliance with any other specific quality requirements identified in this Order, and approved by Ultra. Records of all quality control inspection work or other inspection or test performed by Seller on the goods and services which are the subject of this Order shall be kept complete and shall be available to Ultra and its customers upon written request, unless previously identified as a deliverable in this Order.

24. INSPECTION

- a) All material and workmanship shall be subject to inspection and test at all reasonable times and places, by Ultra and Ultra's customer before, during, and after performance and delivery. If goods furnished and/or services performed under this Order do not conform to the requirements of this Order, Ultra shall have the

right, without prior consent or consultation, and at Ultra's option, to suspend payment to Seller for such goods and services, reject and return same at Seller's expense for full credit or require the replacement or correction of the same at Seller's expense, or Ultra may keep and rework any such materials not so conforming. Cost of repair, rework, replacement, inspection, transportation, repackaging, and/or re-inspection by Ultra shall be at Seller's expense. All goods also may be subject to further final inspection and acceptance or rejection at Ultra's plant, Seller's plant, or site of installation, notwithstanding any payments, previous source inspection, or acceptance.

- b) If any inspection or test is made on Seller's or its subcontractors' premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Ultra's inspectors or representatives of Ultra's customers. The foregoing are supplementary to and not in lieu of the provisions of (a) above, and shall in no way relieve Seller of its obligation to furnish all goods and perform all services in strict accordance with this Order and which are free from defects.
- c) Ultra's failure to inspect does not relieve Seller of any responsibility to perform according to the terms of this Order.

25. JIGS AND FIXTURES

In the manufacture of goods to be supplied hereunder, Seller shall use jigs, fixtures, and/or other devices and appliances in all processes that are conducive to the manufacture of uniform goods. Seller agrees that whenever Ultra determines that such devices or appliances are incorrect, worn, damaged, or defective to such an extent as to adversely affect basic interchangeability of the item manufactured, Seller shall not thereafter use the same in its incorrect, worn, damaged, or defective form and shall repair or replace such devices or appliances.

26. DOCUMENT LANGUAGE

All documentation furnished under this Order, unless otherwise specified in this Order, will be written in the English language. In the event of any inconsistency between any terms of this Order and any translation thereof into another language, the English language meaning shall control and the English language shall govern any question with respect to interpretation. All measurements applicable to the work performed herein will be in accordance with the Canadian system of measurement or the system of measurement prescribed in this Order.

27. PRICES

Seller warrants that the price(s) charged for the goods and/or services specified in this Order do not exceed the selling price(s) Seller charges its most favored customer for the same or substantially similar items, whether sold to any Government or to any other purchaser, taking into account the quantity purchased and terms and conditions of sale. Seller further agrees that in the event of an announced price reduction prior to complete shipment of goods or performance of services, said price reduction shall be passed on to Ultra for goods remaining to be shipped or services still to be performed.

28. PAYMENTS

Seller's invoices must be itemized to show goods delivered and/or services rendered. Errors or omissions in invoices or delays in receiving proper invoices will be considered just cause for withholding payment. Payments under this Order shall be made in Canadian currency, unless otherwise specified elsewhere in this Order. Following receipt of Seller's proper invoices for goods delivered and/or services rendered, and provided such goods and/or services have been accepted by Ultra, Ultra shall pay Seller upon net 45 days from receipt of said invoice, unless otherwise stated on the face of the purchase order. Ultra reserves the right to withhold payment for goods delivered and/or services rendered in advance of Ultra's stated schedule until the date specified on Ultra's Order. Without limiting Ultra's other remedies, if data, reports, or other deliverables are not furnished when scheduled, Ultra may withhold remaining payments (or such portion thereof as Ultra may deem equitable) until such data, reports, or other deliverables are furnished. Governmental duties, taxes, other levies, when applicable, shall be itemized as separate items on Seller's invoices. Any and all tax exemption certificates shall be acceptable by Seller.

29. DISPUTES

All disputes, claims, or controversies arising under or related to this Order which are not resolved by mutual agreement within a reasonable time shall be settled by arbitration. The arbitration shall be held in Halifax, Nova Scotia and shall be conducted in accordance with the *Commercial Arbitration Act* (Nova Scotia). The arbitration panel shall consist of three arbitrators, one appointed by each party and the third appointed by the first two members. The arbitration panel shall resolve the questions submitted, award the relief to which each party may be entitled, and allocate the costs of arbitration. Notwithstanding the foregoing, each party shall bear the burden of its own counsel fees incurred in connection with any arbitration proceedings under this Order. The decision of the arbitrators shall be final, binding on Ultra and Seller, not subject to appeal, and enforceable by any court having jurisdiction over the necessary party or its assets. Pending resolution or settlement of any dispute arising under this Order, Seller will proceed diligently with the performance of this Order or any change hereto in accordance with the decision and instructions of Ultra.

30. TAXES AND CUSTOM CHARGES

Except as may be otherwise provided in this Order, price(s) set out in this Order are inclusive of all taxes, assessments, fees, licenses, customs charges and other compulsory governmental charges, applicable to Seller and its subcontractors. If Seller is not required to pay any of the foregoing taxes or other charges or obtains a refund or drawback thereof, price(s) set out in this Order shall be correspondingly decreased. Seller shall promptly notify Ultra of all matters pertaining to taxes or other charges which reasonably may be expected to result in a decrease in price(s) set out in this Order.

31. PRIORITIES

If Seller procures any materials or products in the United States directly, by subcontract, or through other agents for the performance of this Order, and these materials or products are certified under the U.S. Defence Materials System Regulations, then Seller and its subcontractor or other agents shall follow as required, the provisions of the system and all other applicable regulations under which priorities and allocations are defined.

32. INSURANCE AND INDEMNITY AGAINST CLAIMS

- a) Seller shall be responsible for the actions and failure to act of all parties retained by, through, or under Seller in connection with the performance of this Order. Seller shall also maintain such General Liability, Property Damage, Employer's Liability, and Workers' Compensation Insurance and Motor Vehicle Liability (Personal Injury and Property Damage) Insurance as are specified in this Order or if none specified, such amount as will protect Seller (and its subcontractor) and Ultra from said risks and from any claims under any applicable Workers' Compensation, or Occupational Health and Safety legislation.
- b) Seller shall, without limitation as to time, indemnify and save Ultra harmless from all claims which may be asserted against property covered hereunder, including, without limitation, mechanic's liens or claims arising under Workers' Compensation or Occupational Disease laws and from all claims for injury to persons or damage to property arising out of or related to such property unless the same are caused solely and directly by Ultra's negligence.
- c) Upon request by Ultra, Seller will provide Ultra with proof of insurance acceptable to Ultra.

33. PACKING AND SHIPMENT

- a) Unless otherwise specified, all goods to be delivered under this Order are to be packed in accordance with good commercial practice.
- b) Unless otherwise specified, a complete packing list shall be enclosed with each shipment. Sellers located in Canada shall send two copies of accounting invoices to Ultra. Sellers located in countries other than Canada shall send four copies of certified Customs Invoices to Ultra.
- c) A "blanket" or "original" NAFTA certificate of origin signed by Seller's authorized individual must be forwarded prior to the release of shipment. Seller will be held financially responsible for all penalties or fines levied due to errors or omissions.
- d) Seller shall mark containers or packages with Ultra's Order number, part number, part description, quantity, and the names and addresses of consignor and consignee or other markings as set out in this Order. Bills of lading shall include this Order number, package weight, and package dimensions.

e) Unless otherwise specified, delivery shall be EXW Destination, in accordance with Incoterms 2000.

34. ANTI-BRIBERY AND CORRUPTION; ANTI-MONEY LAUNDERING

- a) The Seller understands and acknowledges that the Company does not authorize and will not tolerate or authorize bribery, or any other corrupt activities, in connection with the conduct of its business.
- b) Seller represents and warrants that:
 - a. Seller has not, whether directly or indirectly, authorized, offered, promised or given a financial or other advantage (including without limitation any money, contribution, gift, bribe, rebate, payoff, influence payment, kickback, loan, reward, advantage or anything of value, including any benefit of any kind) and will not, whether directly or indirectly, authorize, offer, promise or give such financial or other advantage:
 - i. to another person with the intention to induce a person to perform improperly a relevant function or activity (including any function of a public nature, any activity connected with business, any activity performed in the course of a person's employment or any activity performed by or on behalf of a body of persons (whether corporate or unincorporated)),
 - ii. to another person with the intention to reward a person for the improper performance of such a function or activity;
 - iii. to another person with the knowledge or belief that the acceptance of the advantage would itself constitute the improper performance of such a function or activity;
 - iv. to a government official (or his representative), any political party or party official, any candidate for political office, with the intention of influencing such official, party, or candidate in its or his official capacity to do or omit to do an act in violation of the lawful duty of such party, official, or candidate and with the intention of obtaining or retaining business, or to secure any improper advantage;
 - v. to another person, while knowing or being aware of the high probability that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, as a bribe or kickback;
 - vi. in violation of any law (including, without limitation, the law of the Territory and English law) or;
 - vii. to a foreign public official or to any person for the benefit of a foreign public official (a) as consideration for an act or omission by the official in connection with the performance of the official's duties or functions; or (b) to induce the official to use his or her position to influence any acts or decisions of the foreign state or public international organization for which the official performs duties or functions.
- c) to the extent applicable, Seller shall have received all documentation and other information required by, and complied in all material respects with, "know-your-customer" and anti money-laundering rules and regulations.
- d) Seller has not, and will not, establish or maintain any fund or asset that has not been accurately recorded in the books and records of Seller.

For the purposes of this clause 34, terms used shall have the following meanings:

- a) 'government official' shall include, but shall not be limited to, an individual who is employed or appointed by a public body and any person acting in an official capacity.
- b) 'foreign public official' means:
 - a. a person who holds a legislative, administrative or judicial position of a foreign state;
 - b. a person who performs public duties or functions for a foreign state, including a person employed by a board, commission, corporation or other body or authority that is established to perform a duty or function on behalf of the foreign state, or is performing such a duty or function; and
 - c. an official or agent of a public international organization that is formed by two or more states or governments, or by two or more such public international organizations;

- c) 'public body' shall include, but shall not be limited to, any government, including any department, agency or instrumentality of any such government, the armed forces of any government, any other national, regional or local governing or administrative body, and any other body which exercises authority over or in relation to the public at large in any jurisdiction, any public agency or public enterprise, or any public international organisation; and
- d) 'foreign state' means a country other than that in which the Company is resident, and includes (i) any political subdivision of that country; (ii) the government, and any department or branch, of that country or of a political subdivision of that country; and (iii) any agency of that country or of a political subdivision of that country.

Seller will procure that each and every officer, employee and intermediary employed or instructed by Seller who will perform services under, or in connection with, this Agreement or otherwise for the benefit of the Company (or any of the companies in the Ultra Electronics Holdings plc group) will sign a declaration confirming that they have read and understood this clause and that they will abide by it.

35. AUDIT RIGHTS

- a) Seller shall maintain proper accounts and records recording all payments made and received by Seller in connection with its performance of its duties under this Agreement.
- b) Seller will allow the Company (either through its employees or through an independent auditor) to access Seller's accounts and records (including supporting documentation such as invoices and bank statements) in order to satisfy itself that neither Seller nor its officers, employees or intermediaries have paid bribes or otherwise acted corruptly or dishonestly in connection with the provision by Seller of services under this Agreement, during the term of this Agreement, provided that any such access shall be on not less than two (2) days' written notice at any time during normal business hours for the purposes of auditing or otherwise inspecting the accounts and records.
- c) Seller shall afford to the Company all reasonable assistance in the carrying out of any such audit. The Company and its auditors shall ensure that any information obtained in the course of the audit concerning Seller's business is treated as confidential information according to the provisions of clause 14 and not used for any purpose other than the proper conduct of the audit concerned.
- d) If the Company has reasonable grounds to suspect that Seller or any of its officers, employees or intermediaries has paid any bribes or otherwise acted corruptly or dishonestly in connection with the provision by Seller of services under this Agreement, it may terminate this Agreement by reason of fundamental breach of contract by Seller.

36. INDEPENDENT CONTRACTOR RELATIONSHIP

Ultra and Seller are independent contracting parties and this Order does not create any agency, partnership, or joint venture relationship between Ultra and Seller or between Ultra and Seller personnel for any purpose whatsoever, nor does this Order grant any power or authority to either party to accept on behalf of the other party any order or agreement, or to create any obligation on behalf of or in the name of the other party.

37. SURVIVAL

If this Order expires, is completed, or is terminated, the following provisions shall survive: Governing Law, Export Control, Warranties, Infringement Indemnity, Seller's Data, Property Rights, Proprietary Information, Duplication, and Disclosure, Publicity, Disputes, Insurance and Indemnity Against Claims, Independent Contractor Relationship, Severability, Remedies, and Waiver.

38. REMEDIES

The rights of Ultra under this Order shall be in addition to the rights and remedies at law or in equity.

39. OFFSETS

This Order has been awarded with cognizance of Ultra's industrial participation/offset programs. All offset credits resulting from this Order are the sole property of Ultra and shall, at Ultra's option, be applied to the industrial/offset program of its choice. Seller agrees to assist Ultra in securing appropriate offset credits from respective government authorities.

40. WAIVER

Ultra's failure or delay to insist, in any one or more instances, upon the performance of any term or terms of this Order, or to exercise any right or remedy available hereunder, shall not be construed as a waiver or relinquishment of Ultra's right to such performance or the future performance of such term or terms, right, or remedy, and Seller's obligation in respect thereto shall continue in full force and effect.

41. SEVERABILITY

Should any provision of this Order or application thereof be deemed invalid, illegal, unenforceable, then that provision shall be deemed severed from this Order and the remainder of this Order will remain valid, enforceable and in full force and effect. Ultra and Seller shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory provision of like economic intent and effect.