

DELTA FLIGHT PRODUCTS, LLC - PURCHASE ORDER TERMS AND CONDITIONS

THIS PURCHASE ORDER (THE "PURCHASE ORDER" OR "ORDER") IS NEITHER AN EXPRESSION OF ACCEPTANCE OF ANY OFFER MADE TO DELTA FLIGHT PRODUCTS, LLC ("BUYER") BY SELLER NOR A CONFIRMATION OF ANY CONTRACT OR AGREEMENT BETWEEN BUYER AND SELLER; THIS PURCHASE ORDER IS AN OFFER OR COUNTER OFFER TO THE SELLER TO CONTRACT ON THE TERMS SET FORTH HEREIN, AND SUCH OFFER OR COUNTEROFFER EXPRESSLY LIMITS ACCEPTANCE BY SELLER TO THE TERMS SET FORTH HEREIN AND ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SELLER ARE SPECIFICALLY REJECTED, UNLESS EXPRESSLY AGREED TO IN A WRITING SIGNED BY A REPRESENTATIVE OF THE BUYER.

Terms of Purchase Order (Services and/or Goods)

- 1. ACCEPTANCE OF OFFER.** Seller may accept this offer or counter offer (i) by commencing performance or (ii) by forwarding written acknowledgment of acceptance to Buyer. The first to occur of (i) or (ii) shall constitute Seller's acceptance. If Seller accepts this offer or counter offer by commencing performance, Seller shall thereupon be bound hereby, but Buyer shall not be bound until (i) Buyer receives written notice of such commencement, or (ii) Seller completes its rendition of the services ordered hereunder (the "Services") and Buyer receives the Goods ordered hereunder (the "Goods"), whichever shall sooner occur. If Seller accepts this offer by forwarding an acknowledgment of acceptance, Seller thereupon shall be bound hereby, and Buyer shall be bound upon receipt of such acknowledgment.
- 2. ALTERATION OF TERMS.** The terms of this Order may not be modified, superseded or amended except in a writing signed by a representative of Buyer ("Buyer's Agent"). Each rendition of the Services, and each shipment of the Goods received by Buyer, shall only be upon the terms of this Order, notwithstanding any terms that may be contained in any quotation, acknowledgment, invoice or other form of Seller, or Buyer's act of accepting or paying for any of the Services, or any shipment of the Goods or any other act.
- 3. SHIPMENT AND DELIVERY.** (a) Time is of the essence of this Order. If the rendition of the Services or delivery of the Goods is not completed by the time indicated herein or Seller becomes insolvent or makes a general assignment for the benefit of creditors, or a petition in bankruptcy is filed by or against Seller, Buyer reserves the right without liability (in addition to its other rights and remedies hereunder and at law and equity) to cancel this Order by written, facsimile or telegraphic notice or verbal notice confirmed in writing (which notice shall be effective when received by or communicated to Seller) as to any of the Services not rendered and any of the Goods not shipped, to purchase substitute services and goods elsewhere, and to charge Seller with any loss incurred. Provisions for rendition of the Services and delivery of the Goods by installments shall not be construed as making the obligations of Seller severable. (b) Shipments shall be suitably packed to prevent damage, and shipped only by licensed carrier approved by Buyer's Agent and via the least expensive route, unless otherwise instructed. Shipments F.O.B. Seller's plant shall be released at a declared valuation of the true replacement value for Buyer, but in no event shall such declared valuation exceed the maximum permitted under the carrier's least expensive route schedule applicable to Goods constituting such shipment. Shipments moving at Buyer's expense (collect) should be shipped in accordance with the Delta Air Lines Routing Guide. (c) Concurrent with shipping the Goods, Seller shall forward notice thereof, together with a copy of the bill of lading (or other shipment documents) and the packing list applicable thereto according to the instructions specified on the face of this Order. All bills of lading (or other shipment documents), packages, packing slips and correspondence must show Buyer's Purchase Order Number. Packing lists must bear a complete description of Goods shipped.
- 4. PRICE AND PAYMENT.** (a) Buyer shall not be billed at or charged prices higher than stated in this Order without the prior written consent of Buyer's Agent. The prices stated in this Order include packing, crating and transportation F.O.B. point shown. Seller agrees that any price reduction made in the Services or Goods subsequent to the placement of this Order and prior to rendition and delivery of all of the Services and Goods will be applicable to all Services and Goods under this Order. (b) Seller shall submit invoices for Goods and Services in accordance with the instructions set forth on the face of this Order. The cash discount period will date from the rendition of the Services and receipt by Buyer of the Goods or from the date of the invoice, whichever is later. Shipments sent C.O.D. will not be accepted and drafts will not be honored without the prior written consent of Buyer's Agent and all Goods attendant therewith will be at Seller's risk.
- 5. ADDITIONAL CHARGES.** Except for taxes pursuant to Section 17, no charges not shown on the face of this Order will be allowed without the prior written consent of Buyer's Agent.
- 6. TERMINATION.** Buyer may, at any time, terminate this Order for its own convenience, in whole or in part, by written, facsimile or telegraphic notice or verbal notice confirmed in writing, which notice shall be effective when received by or communicated to Seller. If so terminated, any claim of Seller shall be settled on the basis of and limited to the reasonable costs Seller has incurred in the performance of this Order as of the time of receipt of Seller's notice.
- 7. PATENTS, TRADE SECRETS AND CONFIDENTIAL INFORMATION.** Seller warrants that the Services, Goods, systems, articles or apparatus, or any part thereof constituting deliverables furnished under this Agreement, as well as any device or process necessarily resulting from the use thereof, do not infringe, or constitute an unauthorized use of, any (i) United States or foreign letters patent, (ii) trade secrets, or (iii) confidential information, and Seller agrees to defend, at Seller's expense, all claims, suits, actions, or proceedings, in law or equity, against Buyer, its successors, assigns, customers, or users of any of the Services and Goods, or any of them, for actual or alleged infringements or unauthorized use of any one or more of the items described in (i), (ii), and (iii) resulting from or arising out of the use or sale of the Services and Goods, or either of them, and further agrees to pay and discharge any and all judgments, decrees, penalties and settlements which may be rendered or reached, and related costs and expenses (including attorneys' fees), in any and all such claims, suits, actions or proceedings against the Buyer, its successors, assigns, customers and such users, or any of them. In case use of said systems, article, apparatus, part, device, process or deliverable is enjoined, Seller shall, at its own expense and at its option, either procure for Buyer the right to continue using said Services, systems, article or apparatus, part, device, process or deliverable or replace same with a non-infringing equivalent, or remove said systems, article or apparatus and refund the purchase price and the transportation and installation costs thereof.
- 8. INDEMNITY.** Seller shall indemnify, defend and hold harmless Buyer and its affiliates, and their respective directors, officers, employees and agents (collectively, the Indemnified Parties and individually an Indemnified Party) from and against any and all claims, damages, losses, liabilities, judgments, fines, civil penalties, costs and expenses of any kind or nature whatsoever (including but not limited to interest, court costs and attorney(s) fees) which in any way arise out of or result from any Services or Goods sold to Buyer by Seller (or anyone directly or indirectly employed by Seller or anyone for whose acts Seller may be liable) in connection with any defect or deficiency in the Services or Goods sold to Buyer, or Seller's failure to perform the Services or provide the Goods, including injury to or death of any person, damage to or destruction of any property, real or personal (including but not limited to property owned, leased or under the control of Buyer), and liability or obligations under or with respect to any violation of federal, state or local laws, regulations, rules, codes and ordinances (including but not limited to those concerning environmental protection). This Section shall apply regardless of whether or not the damage, loss or injury complained of arises out of or relates to the negligence (whether active, passive or otherwise) of, or was caused in part by, an Indemnified Party. However, nothing contained in this Section shall be construed as a release or indemnity by Seller of an Indemnified Party from or against any loss, liability or claim arising from the sole negligence or willful misconduct of that Indemnified Party. This Section

shall not be construed to negate, abridge or otherwise reduce any other right to indemnity which would otherwise exist in favor of any Indemnified Party, or any other obligation of Seller to indemnify an Indemnified Party. Seller's obligations under this Section shall not be limited in any way by any limitations on the amount or type of damages, compensation or benefits paid or payable by Seller under Workers Compensation Acts, disability benefits acts or other employee benefit laws or regulations. The indemnification obligations of this Section shall survive termination or expiration of this Order. Seller agrees, in any instance where claims, suits, actions or legal proceedings are brought against the Seller and in any way affect Buyer's interests under this Order or otherwise, that (i) Seller shall notify Buyer in a timely manner (not to exceed five (5) business days) after learning of any actual or threatened claims, suits, actions of legal proceedings, and shall not at any time consummate any settlement without Buyers prior written consent; and (ii) without releasing any obligation, liability or undertaking of Seller to indemnify Buyer hereunder, Buyer shall have the right to (1) cooperate in the defense of such claim, (2) with permission of the court, intervene in any such action, and (3) supersede Seller in the defense of any such claim.

9. **QUALITY.** Seller warrants (i) that all of the Services, Goods, material and work covered hereunder will conform to the specifications, drawings, samples, data or other description furnished to or by, or adopted by, the Buyer, (ii) that the Services shall be performed in accordance with the highest standard of the trade encompassing the Services, and (iii) that the Goods will be of good material and workmanship, new (unless otherwise specified by Buyer), free from all liens or encumbrances, free from defects, merchantable, and fit and sufficient for the purpose(s) intended. If Buyer shall have delivered to Seller any item(s) to be serviced, repaired, refurbished or otherwise worked on by Seller, Seller shall be liable for any damage to such item(s) as a result of Seller's servicing, repairing, refurbishing or otherwise working on such item(s).

10. **DEFECTIVE PERFORMANCE AND/OR GOODS.** If any of the Services and Goods, or either of them, fail to comply with any of the terms of this Order, then, at Buyer's option, (i) Seller shall either promptly correct such discrepancy, replace such Goods and/or perform such Services at Seller's expense upon written, facsimile or telegraphic notice, or verbal notice confirmed in writing, of such discrepancy from Buyer (which notice shall be effective when received by or communicated to Seller), or (ii) Buyer may correct such discrepancy, repair such Goods and/or perform such Services, and Seller shall promptly reimburse Buyer for all labor and material costs incurred. With respect to the remedy under clause (i) above, if Seller shall fail to so act within 5 days of such notice, Buyer may cancel this Order as to all such Services and Goods by giving Seller notice in the manner described above, and, in addition to its other rights and remedies hereunder and at law and equity, Buyer may, at its option, cancel the then remaining balance of this Order by the same notice procedure, and as to all or any part of the Services and Goods, or either of them, purchase substitute services and goods elsewhere and charge Seller with any loss incurred. Seller acknowledges that Buyer may recover all damages or costs it incurs as a result of or relating to Seller's breach of any warranties or the failure of Seller to correct defects in or replace nonconforming Goods or Services promptly, including but not limited to costs associated with the shipment, both to and from the original destination, of the defective Goods or Services. After notice to Seller of a discrepancy, all such Goods will be held at Seller's risk until the discrepancy is corrected or such Goods are returned to Seller. Any payment for the defective Goods and/or Services prior to Buyer's cancellation notice shall be refunded by Seller promptly upon such cancellation.

11. **RISK OF DAMAGE AND LOSS.** Risk of damage and loss to any items(s) to be serviced, repaired, refurbished or otherwise worked on by Seller shall be with Seller from the time such items(s) are delivered to Seller until Seller delivers such items(s) F.O.B point designated herein. Risk of damage and loss to any of the Goods shall be with Seller until the Goods are delivered F.O.B. point designated herein.

12. **INSPECTION AND ACCEPTANCE.** The Services and Goods are subject to inspection, testing and approval both at Seller's plant and at the Buyer's point of destination, or either of those points, at the time and in the manner recognized by aerospace industry trade practice. Buyer reserves the right to reject and refuse acceptance of such of the Services and Goods which do not comply with all terms of this Order. Acceptance, payment, use or resale of the Services and Goods, or either of them, by Buyer shall not relieve Seller from any of its obligations, representations, and warranties hereunder or pursuant hereto. Payment for any of the Services and Goods, or either of them, shall not be deemed an acceptance thereof.

13. **FABRICATION AND MATERIAL COMMITMENTS.** Without the prior written consent of Buyer's Agent, Seller shall not make commitments for materials nor fabricate in advance of the time necessary to meet delivery dates specified herein. Except for customary quantity variations recognized by trade practice, Goods in excess of those ordered will not be accepted, and such Goods will be received, held and returned to Seller by Buyer at Seller's risk and expense.

14. **APPLICABLE LAWS.** Seller, in the performance and pricing of this Order, shall comply with the provisions of all applicable Federal, state and local laws, regulations, rules and ordinances, including without limitation the Fair Labor Standards Act of 1938 as amended, and the Occupational Safety Act of 1970, as amended and agrees upon request to furnish Buyer a certificate to such effect. To the extent applicable the federally mandated equal opportunity or affirmative action clauses found at 41 CFR § 60-1, 41 CFR § 60-250 and 41 CFR § 60-741 and the federally mandated notice to employees concerning payment of union dues found at 29 CFR 470 are incorporated herein by reference. To the extent applicable, Seller shall comply with provisions of the Small Business Administration Act with respect to the utilization of small, HUBZone small, small disadvantaged and women owned small business concerns as prescribed in 48 CFR Ch. 1, §52.219-8 in all subcontracts that offer further subcontracting opportunities. All subcontractors, except small business concerns, that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction) must adopt and comply with a plan similar to the plan required by 48 CFR Ch. 1, §52.219-9, "Small Business Subcontracting Plan." (48 CFR Ch. 1, §19.704 (a) (4)).

15. **PROPERTY FURNISHED TO SELLER BY BUYER.** Unless otherwise agreed in writing, all drawings, designs, specifications, tools, dies, molds, jigs, patterns, machinery, fixtures, equipment, data and any other property furnished to the Seller by the Buyer, or specifically paid for by the Buyer, as the object of Seller's performance under, or for use in the performance of, this Order, shall be and remain the property of the Buyer, subject to removal upon the Buyer's instruction, used only in filling orders from the Buyer, held at the Seller's risk, and kept insured by the Seller while in its custody or control in an amount equal to the replacement cost thereof, with loss payable to the Buyer. Seller shall keep all such goods free and clear of all liens and encumbrances whatsoever.

16. **SPECIAL TOOLS.** Except where furnished to Seller by Buyer or specifically paid for by the Buyer pursuant to Section 15, all drawings, specifications, tools, dies, molds, jigs, patterns, machinery, fixtures and equipment needed by Seller for the performance of this Order shall be at Seller's expense and shall be Seller's property.

17. **ASSIGNMENT.** Seller may not assign, transfer or delegate this Order, any interest herein or any right or obligation hereunder, including the right to receive monies payable hereunder, whether by operation of law, or in connection with the sale of all or substantially all of the equity ownership or assets of Seller, or otherwise, without the prior written consent of Buyer, and any assignment made without such consent shall be null and void.

18. TAXES. Unless otherwise stated, the prices do not include sales, use, excise, and similar taxes applicable to the Services and sale of the Goods or the materials used in the manufacture thereof. All such taxes and charges shall be shown separately on Seller's invoice.

19. REMEDIES. No remedy herein provided shall be deemed exclusive of any other remedy allowed by law or in equity.

20. INTERPRETATION OF CONTRACT/VENUE SELECTION. This contract shall be governed in all respects by the laws of the State of Georgia. The Convention on International Sale of Goods shall not apply in any way to this Order. Litigation arising from this Order may be brought only in the United States District Court for the Northern District of Georgia or, if such court lacks subject matter jurisdiction, in the courts for the State of Georgia in and for Fulton County. Buyer and Seller hereby submit to personal jurisdiction in said courts, and waive any defenses regarding venue or forum non conveniences.

21. DRUG TESTING REQUIREMENT. On or before acceptance of this Order and to the extent required by applicable law, Seller warrants and agrees that it will establish and thereafter maintain a drug testing program for those personnel if so employed by the Seller who perform sensitive safety related and security related functions as defined by the FAA's Anti-Drug Program for Personnel Engaged in Specific Aviation Activities. Seller agrees that such program will comply with all requirements set forth by the FAA. Seller further agrees that it will furnish evidence of compliance with such program upon Buyers request.

22. AUDIT SUPPORT & FACILITY ACCESS. Upon reasonable request and fourteen (14) days' notice in writing, Seller shall permit Buyer to carry out a quality audit reasonably related to the Goods or Services provided to Buyer and will co-operate with such an audit to the fullest extent reasonable, including providing any Buyer representative conducting the audit with full access to any relevant areas of the Seller's facility and any relevant information.

23. INCORPORATION OF CONTRACT CLAUSES. To the extent applicable to this Order, the following provisions of the Federal Acquisition Regulations and Defense Federal Acquisition Regulation Supplement shall apply to Seller's performance hereunder, and any references to "Contractor" as used in the foregoing shall be deemed to refer to Seller: Equal Opportunity (FAR 52.222-26); Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (FAR 52.222-35); and Affirmative Action for Workers with Disabilities (FAR 52.222-36). Seller shall flow down the foregoing provisions to its suppliers and subcontractors.