



# Standard Terms and Conditions of Purchase - Goods

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## **CARRIER CORPORATION (“Buyer”)<sup>1</sup>**

### **STANDARD TERMS AND CONDITIONS OF PURCHASE - GOODS**

#### **1. CONTRACT OF PURCHASE**

Subject to the terms and conditions stated herein and on the order (including all drawings, specifications and other documents attached to or referred to in any order), Supplier agrees to sell and Buyer agrees to purchase from Supplier, the goods and/or services described in the order. Supplier shall acknowledge receipt and acceptance of each order or release within three (3) business days; however, if for any reason Supplier shall fail to return to the Buyer the signed acknowledgement copy of the order, any conduct by Supplier which recognizes the existence of a contract pertaining to the subject matter of the order shall constitute unqualified acceptance by Supplier of the order and all of its terms and conditions, including the terms herein. The terms of the order, including the terms herein, shall constitute the complete and exclusive statement of the terms and conditions of the contract between the parties and may be modified only by written instrument executed by the authorized representatives of both parties. Any terms proposed by the Supplier which add to, vary from or conflict with the terms of the order, including the terms herein, are hereby objected to. If the order has been issued by Buyer in response to Supplier’s offer, and if any of the terms on the order or herein are additional to or different from the terms of such offer, then the issuance of the order by Buyer shall constitute an acceptance of such offer, subject to the express condition that the terms of the order and the terms herein constitute the entire agreement between Buyer and Supplier with respect to the subject matter hereof and the subject matter of such offer. Further, Supplier shall be deemed to have so assented and acknowledged unless Supplier notifies Buyer to the contrary in writing within seven (7) calendar days of receipt of the order. Any reference by Buyer to Supplier’s proposal is solely for the purpose of incorporating the description and specifications of the goods and/or services contained therein to the extent that such description and specifications do not conflict with the description and specifications on the face of the order.

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<sup>1</sup> Each of Carrier Corporation and any of its parent companies, affiliates or subsidiaries shall be entitled to exercise all rights and/or benefits afforded to the “Buyer” pursuant to these Standard Terms and Conditions of Purchase - Goods.



## **2. PRICE**

The price for the goods and/or services shall be the price as shown on the order. The Supplier warrants that the agreed price is not less favorable than that currently extended to any other buyer for the same or like goods in equal or lesser quantities.

## **3. TAXES**

Unless exempt therefrom, all duties and taxes which Supplier is required by law to collect from Buyer are included in the price stated on the order; any such items included in the prices or otherwise payable by Buyer shall be separately identified on Supplier's invoice.

## **4. INVOICES**

Unless otherwise agreed in writing, invoices are paid net ninety (90) days from date of receipt of the goods or completion of any required services, and not on the basis of Supplier's invoice date. Supplier shall issue invoices in accordance with the foregoing sentence. All invoices must contain the following information: purchase order number, item number, description of items, sizes, quantities, unit prices. Payments of invoices shall be subject to adjustment for shortages, defects and other failures of Supplier to meet the requirements of the order. Buyer's tender of payment by check is sufficient, provided such check is honored, upon presentment by the "Payor Bank." Buyer shall have the right to reduce and set-off against amounts payable hereunder any indebtedness or other claims which Buyer may have against Supplier however and whenever arising. Buyer shall not be obligated to pay for any goods or services if the invoice for such goods or services is received more than twelve (12) months after the receipt of the goods or performance of the services.

## **5. DELIVERY**

Unless otherwise agreed in writing, the goods shall be delivered to Buyer assembled, completed, and ready for use, and the Buyer shall accept delivery of such goods or performance of any required services at the location designated on the order. The obligation by Supplier to meet the delivery or performance date is material and TIME IS OF THE ESSENCE. Upon request, Supplier shall give Buyer advance notice of when shipments will be made. Delivery of goods or performance of any required services is not complete until goods or services have been actually received and accepted by Buyer.



## **6. EXCUSABLE DELAY**

Supplier shall not be deemed to be in default on account of delays in the delivery of goods or in the performance of services to the extent such delays result from causes that are unforeseeable, unavoidable, beyond Supplier's control and not occasioned by Supplier's fault or negligence, provided that promptly upon the occurrence of any event which may result in a delay, Supplier shall give notice thereof to Buyer, which notice shall identify such occurrence and specify the period of delay which may be reasonably expected to result therefrom. Supplier shall make best efforts to resume timely delivery and mitigate the potential impact of any delay on Buyer. In the event delivery of the goods or performance of services shall be delayed due to any cause beyond Supplier's control and not occasioned by Supplier's fault or negligence for a period of more than thirty (30) days after the end of the calendar month in which delivery is otherwise required, Buyer shall have the option to terminate the order upon written notice given to the Supplier within five (5) business days after the expiration of such thirty (30) day period, and such termination shall discharge all obligations and liabilities of the parties hereunder with respect to undelivered goods, services, data or other items to be furnished hereunder.

## **7. WARRANTY**

Supplier warrants to Buyer and its affiliates, its successors, assigns, customers and users of the goods sold by Buyer that all goods provided hereunder shall be (i) merchantable; (ii) new; (iii) free from defects in material and workmanship; (iv) free from defects in design, except to the extent the goods are designed by Buyer; (v) in compliance with all applicable specifications, drawings, and performance requirements; (vi) fit for the purpose intended; (vii) free from liens and encumbrances on title; and (viii) free from infringement of third party intellectual property. Delivery, inspection, test, acceptance or use of, or payment for the goods furnished hereunder shall not affect Supplier's obligation under this warranty, and such warranties, and all other warranties, express or implied, shall survive delivery, inspection, test, acceptance, payment, and use for a period of forty-eight (48) months beginning on the later of the date of installation of Buyer's product containing the goods, or the date goods are delivered as a warranty repair or replacement. If defects are identified before shipment to Buyer's customer, and provided Buyer elects to provide Supplier with the opportunity to make the repair or provide the replacement, Supplier agrees, at Buyer's option, to correct defects in or replace any goods not conforming to the foregoing warranty promptly, but in no event, will repair or replacement and delivery be completed more than ten (10) days from notice of such nonconformity by Buyer. A written notice specifying that such goods are corrections or replacements shall accompany deliveries of corrected or replaced goods. In the event that Supplier fails to correct defects in or replace nonconforming goods promptly, Buyer, after reasonable



notice to Supplier, shall have the right to correct or replace such goods and charge Supplier for the cost incurred by Buyer in doing so, such right to include, without limitation, Buyer's right to deduct or offset. If defects are identified after shipment to Buyer's customer, goods may be scrapped, retained, or held for Supplier's disposition, at the discretion of Buyer's customer. Supplier shall promptly reimburse Buyer for any expenses or damages incurred by Buyer regardless of the nature of such expenses or damages as a result of or relating to Supplier's failure to comply with (i)–(viii) above, including but not limited to repair, replacement, rework, removal and reinstallation costs, shipping costs, production delays, payment withholds, field service costs, recall costs, administrative costs and costs of filing and complying with legal and regulatory requirements, including but not limited to those of agencies such as the Consumer Product Safety Commission. If services or technical data are to be provided by Supplier hereunder, Supplier warrants to Buyer that such services and/or technical data have been performed or prepared in a professional and workmanlike manner and in compliance with Buyer's instructions or other requirements. Supplier further warrants that it has the requisite power, authority and ability to execute, deliver and perform its obligations hereunder.

## **8. QUALITY OF GOODS AND SERVICES**

All orders for goods or services are subject to the requirements contained in the Carrier Quality Manual ("SQM"), which is incorporated herein by reference. The SQM is located on the Buyer's website at:

<http://www.corporate.carrier.com>

or

<https://www.corporate.carrier.com/suppliers>

Supplier acknowledges receipt, review and acceptance of the SQM. Buyer reserves the right at its discretion to revise or amend the SQM at any time, and Supplier agrees that any such revised or amended SQM, as posted on the Buyer's website or otherwise made available to Supplier, shall be binding on the order and Supplier. All goods sold by Supplier to Buyer pursuant to the order shall conform to Buyer's quality standards and requirements set forth in any specifications, drawings, samples or other document upon which the order is based. Buyer, without prejudice to any other rights or remedies, including the right to inspect goods after delivery, shall have the right at all times to inspect and test the goods during manufacture or processing or while stored under Supplier's control. Supplier shall not make any changes during the term of the order in the quality, in the location of manufacture, or in Supplier's processes related to the goods without prior notification to



and written acceptance of such changes by the Buyer. Any accepted changes shall become the controlling standard of quality for the remaining term of the order.

## **9. INDEMNIFICATION**

Supplier shall defend, indemnify and save harmless Buyer, Buyer's customers, affiliates, insurers, and their respective employees, officers, directors, representatives and agents (together, the "Buyer Indemnitees") from and against any and all claims, allegations, suits, demands, proceedings, judgments, awards, losses, liabilities, damages, penalties, fines, assessments, costs or expenses (including attorneys' fees) of any kind or nature (collectively, "Damages"), relating to, arising out of, or caused by Supplier's breach of warranty, breach of contract, fraud, negligence or willful misconduct Supplier will further indemnify, defend, and hold harmless the Buyer Indemnitees as well as any sublicensees, subcontractors, and each subsequent buyer or user from and against any Damages arising from any potential or actual claim, suit, injunction, action, proceeding, or investigation alleging infringement or violation of any Intellectual Property rights or license, including that arising from use of software, related to the manufacture, use, sale, offer for sale, import, or other exploitation of any goods delivered or services performed in connection with any order. If any goods or services, in whole or part, constitute or may constitute infringement or misappropriation of any third party's Intellectual Property rights, or if Buyer's or Buyer's affiliates' use thereof is or may be enjoined, Supplier, in addition to its indemnification obligations, will promptly : (i) secure the rights to continue using the infringing goods, or (ii) re-perform the services or replace the goods with comparable non-infringing goods, or (iii) modify the goods so that they become non-infringing without loss of functionality and within a time acceptable to Buyer, or (iv) at Buyer's option, accept return of the goods and refund of the purchase price. Supplier shall reimburse Buyer for Buyer's costs incurred in obtaining all internal, external and Buyer's customer approvals, qualifications, certifications, and the like, necessary for making, using, providing and selling alternate non-infringing goods. Unless the infringement is otherwise successfully mitigated in accordance with clauses (i) – (iv) of this Section 9, Supplier shall refund to Buyer the purchase price of any such goods that Buyer is prohibited from providing, using, selling, offering for sale, importing, exporting, or otherwise exploiting.

## **10. DEFENSE OF CLAIMS**

If directed by Buyer, Supplier shall take upon itself the defense and/or settlement of all such claims, suits, actions or legal proceedings for which Supplier is obligated to provide indemnification in accordance with Section 9 above, and the defense of any suit, suits or legal proceedings of any kind brought to enforce such claim or claims, and to pay all judgments entered in such suit, suits or legal proceedings, and all attorneys' fees and





other expenses. Supplier agrees that in any instance where such claims in any way affect Buyer's interest under the order or otherwise, Supplier shall not consummate any settlement without Buyer's prior written consent. Supplier's covenants of indemnity herein shall continue in full force and effect notwithstanding the termination or expiration of the order.

## **11. INSPECTION AND ACCEPTANCE.**

Buyer may inspect all goods at any time, including during manufacture at the Supplier's facility. Such inspection may at Buyer's option include confirmation of Supplier's compliance with all requirements of the order. At no additional cost to Buyer, Supplier will permit Buyer and/or its designees access to Supplier's facilities at all reasonable times and will provide all tools, facilities and assistance reasonably necessary for such inspection and/or confirmation. All goods are subject to final inspection and acceptance at any time after delivery to Buyer. Buyer, without prejudice to any other rights or remedies, shall have the right to reject defective goods and, at Supplier's risk (notwithstanding the terms of delivery) and expense, return the same to Supplier or dispose of the same according to Supplier's instructions. Payment or transfer of title shall not constitute acceptance. Buyer may return any non-conforming goods to Supplier for reimbursement, credit, replacement or correction as Buyer may direct, or Buyer may correct and/or replace such goods at Supplier's expense. If Supplier fails to correct or replace non-conforming goods, per Buyer's direction, in a timely manner, Buyer may cancel the order as to all such goods, and in addition, may cancel the then remaining balance of the order. Any goods rejected by Buyer will be held by Buyer temporarily at Supplier's risk and expense. Supplier will not tender goods for acceptance unless any former rejection or requirement of correction is disclosed. Supplier will reimburse Buyer for any packaging, handling and transportation costs Buyer incurs with respect to rejected goods. Buyer may revoke its acceptance of goods at any time, whether or not a substantial modification to the goods has been made, if Buyer finds a previously undiscovered defect in the goods which materially affects form, fit or function or substantially impairs the value of the goods to Buyer.

## **12. BUYER'S CHANGES**

Buyer shall have the right at any time prior to the delivery date of the goods or services to make changes in drawings, designs, specifications, packaging, time and place of delivery, nature and duration of services, and method of transportation. Within ten (10) days after receipt of a change notice, Supplier shall notify Buyer of its proposed pricing for the change, including a cost breakdown and substantiation for the change, whether by way of increase or decrease, and the parties shall negotiate an equitable adjustment in



the corresponding prices.

### **13. CANCELLATION/TERMINATION**

In addition to its other rights hereunder, Buyer reserves the right to cancel the order or any part thereof without further cost or liability if Supplier breaches any of the provisions of the order, or if Supplier becomes insolvent or the subject of any proceeding under the law relating to bankruptcy or the relief of debtors. Buyer further reserves the right to terminate the order or any part thereof for the sole convenience of the Buyer. If such termination right is invoked, all reasonable costs incurred up to the date of termination of the order will be reimbursed, provided Supplier establishes an entitlement thereto. Buyer may terminate immediately if Supplier or any of its directors, officers, or employees becomes for any reason persona non-grata in the jurisdiction where work is performed or to any government, government official, or Supplier fails or refuses to cooperate with any Buyer audit or investigation; or, as applicable, fails to comply with laws or regulations applicable to U.S. federal government contracts. In such circumstance, Buyer shall be: (i) relieved of its obligation to make further payments to the Supplier; and (ii) entitled to recover damages arising from such breach.

### **14. ASSIGNMENT/SUBCONTRACTING**

No right or interest in any order shall be assigned by Supplier without the written permission of Buyer. Any attempted assignment or delegation without such permission shall be wholly void and totally ineffective for all purposes. Supplier shall not retain any third party to perform work without Buyer's express written consent. The Supplier shall remain liable for performance notwithstanding the approval of an assignment or subcontract. Any person or entity to which the order is assigned pursuant to the provisions of applicable bankruptcy or insolvency laws shall be deemed without further act or deed to have assumed all of the obligations arising under the order on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Buyer an instrument confirming such assumption. Any order may be assigned to any person by Buyer, and Supplier hereby agrees to any such assignment without recourse to Buyer.

### **15. CHANGE IN CONTROL**

15.1 Prior to a potential change in control of Supplier and at least ninety (90) days prior to the proposed effectiveness of such change in control, Supplier will promptly notify Buyer in writing thereof and provide the identity of the potential new controlling party and information on such party and the transaction as Buyer may request, consistent with applicable law and confidentiality restrictions. To the extent permissible by applicable law, Buyer shall have the right to (i) require Supplier to obtain a guarantee from the new



controlling party, and (ii) extend the term of this Agreement for up to an additional thirty-six (36) months, under the pricing and other terms and conditions contained herein, by providing written notice thereof to Supplier. In addition, in the event there is a change in control with respect to Supplier, or in the event that any of Buyer's direct or indirect competitors acquires an interest, whether direct or indirect, in Supplier, Buyer shall have the right to terminate the order in whole or in part upon thirty (30) days written notice with Buyer's only obligation being to pay for those conforming goods and services actually received prior to the expiry of such thirty (30) day period. If Buyer chooses to terminate the order under this provision and the remaining term is in excess of six (6) months, Supplier shall, at no additional charge to Buyer, provide to Buyer a worldwide, perpetual, non-exclusive, fully paid, irrevocable, license, with a right to grant sublicenses, to Supplier's information, data, know-how, and other Intellectual Property, including proprietary and manufacturing information, to the extent necessary to enable Buyer to make, have made, use, sell and license the goods, and assist and compensate Buyer for the costs associated with transitioning to another supplier, or Buyer assuming the production of the goods itself, protecting the tooling and other equipment necessary for production of the goods, and taking other reasonable steps to ensure the goods are produced without interruption according to Buyer's specifications. A change in control of Supplier is deemed to have occurred if there is either (a) a change in the beneficial ownership of Supplier, either directly or indirectly, of 25% or more; provided, that, any change, of any amount, in the beneficial ownership of Supplier, either directly or indirectly, which involves a direct or indirect competitor of Buyer shall be deemed a change in control; or (b) a change in Supplier's current (as of the effective date of the order) corporate governance regime, whether direct or indirect, with respect to decision-making on financial and / or operational policies and/or actions of Supplier.

15.2 At any time, if Buyer, in its reasonable discretion, believes that Supplier may not have the ability, for any reason, to continue performing the order, including any material change to Supplier's financial condition, balance sheet, or its credit or similar rating, Buyer may request written adequate assurances from Supplier of its ability, desire and intent to continue performing. Buyer will specify the nature of its concerns, and Supplier will provide Buyer with financial or other information as requested by Buyer. Further, Supplier will immediately notify Buyer in the event Supplier believes it may be unable to pay its debts when due or there is a material change in Supplier's financial position, balance sheet or its credit or similar rating.

## **16. BUYER'S PROPERTY**

All tools, equipment dies, gauges, models, drawings or other materials furnished by the Buyer to Supplier or made by Supplier for the purpose of the order or paid for by the



Buyer, and all replacements thereof and materials fixed or attached thereto, shall be and remain the property of the Buyer. All Buyer's property and, whenever applicable, each individual item thereof, will be plainly marked and otherwise adequately identified by Supplier as "Property of Carrier Corporation" (or as otherwise directed by Buyer), and will, at Supplier's expense, be safely stored (separate and apart from Supplier's property whenever practicable) and will be kept free of all liens, claims, encumbrances and interests of third parties. Supplier will not substitute any property for Buyer's property, will not deliver or make available to any third party any of Buyer's property or any property or goods developed, manufactured or created with the aid of any of Buyer's property and will not use any of Buyer's property or any property or goods manufactured, developed or created with the aid of Buyer's property, except in filling the orders of Buyer. Upon completion of the order, or upon the written request of Buyer at any time, Supplier will prepare all Buyer's property for shipment and deliver such property to Buyer in the same condition as originally received by Supplier, reasonable wear and tear excepted. Buyer shall have the right, at all reasonable times upon prior notice, to enter Supplier's premises to inspect any and all Buyer's property and any property or goods manufactured, developed or created with the aid of any of Buyer's property. Supplier shall have such responsibility for Buyer's property as is chargeable to Supplier by law by reason of its position as a bailee.

## **17. CODE OF CONDUCT**

17.1 Supplier shall comply in all aspects, and take commercially reasonable steps to ensure compliance by its subcontractors, with the principles set forth in the Supplier Code of Conduct located on Buyer's website, currently at:

[https://www.corporate.carrier.com/Images/Carrier\\_Supplier\\_Code\\_of\\_Conduct\\_FINAL\\_tcm558-76603.PDF](https://www.corporate.carrier.com/Images/Carrier_Supplier_Code_of_Conduct_FINAL_tcm558-76603.PDF)

Any breach of this provision shall constitute a breach of an order.

17.2 Supplier shall also adopt and comply with a policy statement or code of conduct regarding business ethics ("Code"). This Code will be suitable for Supplier's business and as a minimum will require compliance with all applicable laws and regulations. The Code shall assure a safe and healthy work environment, prohibit the use of child or forced labor, provide for the protection of the environment and minimization of waste, emissions, energy consumption and the use of materials of concern and prohibit engagement in corrupt practices (e.g. facilitating, offering or paying any bribe). This provision creates no additional duties for Buyer with respect to Supplier and confers no rights on third-parties.

17.3 Supplier further represents and warrants that it has not and will not offer or



give to any employee, agent or representative of Buyer any gratuity with a view toward securing any business from Buyer by influencing such person with respect to the terms, conditions, or performance of any contract with or order from Buyer. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Supplier.

## **18. CONFIDENTIAL AND/OR PROPRIETARY INFORMATION**

18.1 "Confidential Information" and/or "Proprietary Information" (hereinafter referred to collectively as "Proprietary Information") shall, for the purpose of the order, mean: (i) information, knowledge or data disclosed by Buyer to Supplier, regardless of whether disclosed in written, tangible, oral, visual or other form and (ii) information, knowledge or data which was obtained from facility visits. In the event Buyer furnishes sample products, equipment, or other objects or material, including software, to Supplier, the items so received and any information contained therein shall be treated as Proprietary Information disclosed to Supplier under the order. Furthermore, any and all information obtained or derived from said items, including results from testing, shall be treated as if they were Proprietary Information disclosed pursuant to the order. All Proprietary Information disclosed in any documentary or tangible form, whether in written or electronic form may be marked "Proprietary" or "Confidential" and if the Proprietary Information is not so identified, it will be considered proprietary if by its very nature or the circumstances under which it is disclosed one would reasonably consider it to be proprietary. Supplier shall use Buyer's Proprietary Information solely for the purposes of supporting the current business relationship with Buyer and not for any other purpose. To the extent Supplier and Buyer have executed a separate non-disclosure agreement (the "NDA"), the NDA shall govern the treatment of Proprietary Information until its expiration or termination. Following expiration or termination of the NDA, Supplier agrees that it shall not disclose Buyer's Proprietary Information to any third party without Buyer's express written consent. Supplier may disclose Buyer's Proprietary Information to contract workers, consultants and agents of Supplier who have a need to know and who have executed agreements with Supplier obligating them to treat such information in a manner consistent with the terms hereof. Supplier shall not (a) sell parts or components incorporating or containing Buyer Proprietary Information to any third party including, without limitation, any products having the same product numbering or other identification as any parts or components sold to Buyer), or (b) sell any goods to any third party which have been produced using Buyer Proprietary Information.

18.2 Notwithstanding the foregoing provisions, the order shall not restrict or affect Supplier's rights to use or disclose information: (1) which is or may hereafter be in the public domain through no fault of Supplier; or (2) which Supplier can show, as reflected by



its written documents, was known to it prior to the disclosure by Buyer; or (3) which is disclosed to Supplier by a third party, without restrictions similar to those herein imposed, subsequent to disclosure by Buyer; or (4) which Supplier can show, as reflected by its documents, was independently developed by Supplier without the use of the Proprietary Information.

## **19. INTELLECTUAL PROPERTY**

19.1 All inventions, patents, copyrights, trade secrets, know-how, test results, tooling, jigs and fixtures, or other industrial or intellectual property, associated with, or used in or for, the manufacturing of the goods shall be identified herein as "Intellectual Property". Such information includes, without limitation, designs, processes, drawings, prints, specifications, reports, data, technical information, and instructions.

19.2 All Intellectual Property owned by Supplier prior to entering into this Agreement ("Supplier Background Property") shall remain owned by Supplier. Supplier hereby grants and promises to grant to Buyer a worldwide, non-exclusive, perpetual, fully-paid, irrevocable, sub-licensable license to Supplier Background Property to use, sell, offer for sale, import, export, copy, adapt, embed, modify, make derivative works, make and have made goods or the like for Buyer.

19.3 Supplier will notify Buyer of any third party license terms or restrictions that limit Buyer's use of the Supplier Background Property or impose any obligations on Buyer and will provide Buyer with copies of the third party agreements and acquire additional licenses as needed by Buyer to practice its rights under the order.

19.4 "Buyer Project Property" shall mean all Intellectual Property and tangible work product conceived, created, acquired, or first reduced to practice in connection with the order. Buyer shall own all Buyer Project Property. Supplier shall not have any rights in Buyer Project Property except as Buyer may grant for the purposes of manufacturing goods for Buyer. Supplier shall execute assignments and other documents and take any other actions which, in the opinion of Buyer, are necessary to secure Buyer's rights hereunder. Supplier represents that it has taken no action to assist in the registration of the copyrights or patents on the Buyer Project Property and will do so only as and when requested by Buyer. Supplier will contractually bind its employees and other persons or parties as may be used by Supplier in the performance of the order to the obligations established under this Section 19.

19.5 Supplier warrants that the goods will be created originally by Supplier or employees of Supplier within the scope of their employment and with a written obligation to assign all right, title, and interest in the goods and associated Intellectual Property to



Supplier, including the rights enumerated and assigned to Buyer herein, or by subcontractors with a written obligation to assign all right, title, and interest in the goods and associated Intellectual Property to Supplier or, to the extent that goods include third party parts, components or software, that Supplier has acquired the necessary rights for unencumbered use of the parts, components or software in the goods.

19.6 Supplier warrants that in the event of a breach of obligations by an employee or other person or party as defined in Section 19.5, Supplier will enforce the contractual provisions and, upon the written request of Buyer, permit Buyer to enforce the contractual provisions in Supplier's name.

19.7 Supplier warrants that the goods will not contain software subject to an Open Source License without Buyer's prior written approval and that to the extent any such use is approved by Buyer, Supplier will take the appropriate steps to ensure the goods are free of all encumbrances. "Open Source License" means a license that requires as a condition of use, modification, or distribution of software subject to the license, that the software or other software combined or distributed with the software be (a) disclosed or distributed in source code form; (b) licensed for the purpose of making derivative works; or (c) redistributable at no charge.

19.8 Supplier warrants, to the extent applicable to the goods, that they are free of viruses and other sources of network corruption.

19.9 Supplier warrants that it is in compliance with all agreements (including license agreements) with third parties that relate to the Supplier Background Property.

19.10 Supplier shall not sell to any third party any parts, components, products, systems or processes produced using Buyer Proprietary Information, Buyer Intellectual Property or Buyer Project Property. Supplier shall not label, advertise, market, or promote any parts, components, products, systems or processes in any way that indicates that they are a "replacement" or "substitute" for any parts, components, products, systems or processes that Supplier manufactures or has manufactured for and/or sold to Buyer including, without limitation, display or use by Supplier of any product/part number assigned to such parts, components, products, systems or processes by Buyer or Supplier. Except as expressly authorized herein, nothing in the order shall be construed as Buyer granting Supplier a license in or any right to use any Buyer Project Property other than in the performance of work under the order.

## **20. COMPLIANCE WITH LAWS**

Supplier shall comply with all national, federal, provincial, state and local laws,



rules, ordinances, orders (including court orders) and regulations made or issued by a governmental authority applicable to the performance of the Agreement, except to the extent inconsistent with U.S. antiboycott laws, including (i) the manufacture or provision of goods and the supply of services, (ii) the shipping of goods, and (iii) the configuration or content of goods and/or services for the use intended by Purchaser (collectively "**Applicable Law**"). Supplier agrees to cooperate with and support Buyer's efforts to comply with all Applicable Laws. A partial list of Applicable Laws and related compliance obligations is incorporated as Attachment A

## **21. PERFORMANCE OF SERVICES**

Supplier agrees that any services it performs constitute work in its status as an independent contractor. Supplier confirms that it exercises control over its employees, contractors, and agents, and that none is acting under the control of Buyer. Supplier agrees to indemnify and hold Buyer Indemnitees harmless against any claim by its employees, contractors or agents that they are acting under Buyer's control and qualify in any way as Buyer's employees.

## **22. REMEDIES CUMULATIVE**

Buyer's remedies shall be cumulative and remedies herein specified do not exclude any remedies allowed by law or equity.

## **23. TITLE/LIENS**

Title to all goods shall vest in Buyer at the point the goods are delivered to Buyer and have been accepted by Buyer.

## **24. INSURANCE**

24.1 During the Term of this Agreement, Supplier shall maintain the following types and minimum amounts of insurance coverage issued by companies authorized to do business under the laws of the State or jurisdiction in which all or part of the Services are to be performed, and must have an AM Best financial rating of A- or better or an equivalent rating as produced by another rating agency acceptable to Buyer.

24.1.1 Workers' Compensation Insurance, in an amount as required by law and Employer's Liability Insurance in the minimum amount of \$1,000,000 for any one occurrence inclusive of an alternate employer endorsement;

24.1.2 Commercial General Liability Insurance and Umbrella Liability





insurance including premises liability and contractual liability, in which the limit of liability for property damage and bodily injuries, including accidental death, shall be at a minimum, a combined single limit of \$5,000,000 for any one occurrence;

24.1.3 If Supplier vehicles are used on Buyer's premises and/or used to accomplish work under the order or otherwise on behalf of Buyer, Automobile Liability Insurance and Umbrella Liability Insurance in which the limit of liability for property damage and bodily injuries, including accidental death, shall be a combined single limit of \$2,000,000 for any one accident;

24.1.4 If Supplier or its subcontractors have Buyer's materials or equipment in its care, custody or control, Supplier shall have and maintain All-Risk Property Insurance in an amount sufficient to meet or exceed the replacement value of such materials or equipment;

24.1.5 If Supplier is performing professional services on behalf of Buyer, Supplier shall maintain Professional Liability Insurance with a limit of no less than \$5,000,000 per claim;

24.1.6 If Supplier has access to Buyer's or Buyer's customer's computer systems and data bases, processes, store, or will hold any Buyer information, is rendering computer, coding or information technology services and/or technology products on behalf of Buyer, Technology Errors and Omissions Liability Insurance with a limit of not less than \$10,000,000 per claim, which insurance shall include, at a minimum, coverage for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render such services and products,; privacy breach, system breach, denial or loss of service, introduction, implantation, or spread of malicious software code, and unauthorized access to or use of computer systems and

24.2 All insurance including self-insured retention or self-insurance will be primary and non-contributory in the event of loss arising out of Supplier's performance of work. All such policies except the Professional Liability/Errors & Omissions Liability and Workers compensation shall include endorsement naming Buyer as an additional insured, or in the case of All-Risk Property insurance include the Buyer as a loss payee. To the extent permitted by law, Supplier and its insurer(s) agree that subrogation rights against Buyer and its parent are hereby waived. Supplier shall furnish a certificate of insurance and any such endorsements reflecting such coverage to Buyer upon request.

24.3 Form; Notice of Cancellation or Non-renewal. The insurance coverages described above shall be evidenced and disclosed in a form satisfactory to Buyer, upon execution of this Agreement, within five (5) days of renewal. Policies shall contain a



provision prohibiting cancellation, non-renewal or material change except upon at least 30 days' notice and Supplier shall provide written notice to Buyer within at least 10 days of such notice from insurers.

24.4. All such policies except the Professional Liability/Errors & Omissions Liability and Workers Compensation shall include Buyer as an additional insured, or in the case of All Risk Property insurance include the Buyer as a loss payee. Buyer's failure to monitor compliance or to object to non-compliance or unsatisfactory compliance with any terms of Section 24. Insurance does not modify or waive Supplier's obligations under this Section 24 in any way.

24.5 Any self-insurance, self-insured retention, deductibles, and exclusions in coverage in the insurance policies described above will be assumed by, for the account of, and at the sole risk of Supplier. In no event will the Supplier's liability be limited to the extent of the minimum limits of insurance required herein. Supplier shall, if requested by Buyer, advise Buyer of the amount of available policy limits and the amounts of any self-insured retention.

24.6 The insurance required is in addition to and separate from any other obligations contained in this Agreement.

## **25. AUDIT RIGHTS**

Upon reasonable notice, Buyer or its duly authorized representative shall have the right to audit at Supplier's facility Supplier's compliance with any of the provisions herein.

## **26. GOVERNING LAWS**

The order shall be construed and enforced according to the laws of the State of New York, excluding its "choice of law" or "conflict of law" rules. With respect to any dispute arising out of or relating to the order, Supplier hereby irrevocably consents to the exclusive personal jurisdiction and venue in any federal or state court located in Palm Beach County, Florida and appoints the pertinent secretary of state or other applicable government authority as agent for receiving service of process.

## **27. SEVERABILITY**

If any provision herein shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions shall remain in full force and effect.



## **28. NO WAIVER**

The failure of a party to enforce any provision hereof promptly shall not be construed as a waiver of such provision or of the right of such party to enforce such provision at a later time. Acceptance of any goods or services or payment thereof shall not waive any breach.

## **29. EXCLUSION OF U.N. CONVENTION ON INTERNATIONAL SALES**

Unless otherwise agreed by Supplier and Buyer in writing, there is excluded from the order (including any amendments or changes thereto) the application of the United Nations Convention on Contracts for the International Sale of Goods.

## **30. DUTY TO PROCEED**

Notwithstanding the existence of any dispute between Buyer and Supplier, Supplier shall proceed diligently with performance, including, without limitation, acceptance of orders for, and delivery of, goods.

## **31. PRODUCT SAFETY**

Supplier warrants that the goods meet or exceed all applicable legal and regulatory requirements and industry standards. Supplier further warrants that the goods meet or exceed all applicable Buyer standards governing safety-critical characteristics and/or components as set forth in Buyer specifications. To the extent that Supplier becomes aware of a condition that may affect the safety of the goods, Supplier agrees to (i) notify Buyer of such as soon as possible and to take all reasonable steps to prevent the potentially unsafe goods from entering the marketplace, and (ii) cooperate with Buyer in any investigation, safety review, assessment, analysis, etc. to determine the root cause of the potentially unsafe condition. To the extent that potentially unsafe goods entered the marketplace and the root cause of the unsafe condition was caused, in whole or in part, by Supplier, Supplier agrees to assist Buyer in any activities (including but not limited to product recall, field retrofit, inspection etc.) designed to minimize safety risk related to the affected goods, including reimbursement for costs incurred by Buyer in undertaking or participating in such activities. Failure to comply with the requirements set forth in this Section 32 shall constitute a material breach of the order.



## ATTACHMENT A

### APPLICABLE LAW/COMPLIANCE OBLIGATIONS

The following is a partial list of Applicable Law and related Supplier compliance obligations.

#### 1. DISCRIMINATION

All laws pertaining to fair employment practices or which prohibit discrimination because of age, color, sex, physical or mental handicap, race, nationality, religion or creed, or other similar federal or state laws or regulations (in the United States of America, this includes but not limited to (i) E.O. 11246, Section 202, 11625, 11701, and 11758 pertaining to fair employment practices or which prohibit discrimination because of age, color, sex, physical or mental handicap, race, nationality, religion or creed, or other similar federal or state laws or regulations, (ii) 38 U.S.C. 4212, as amended, pertaining to veterans' employment emphasis under Federal contracts, and (iii) E.O. 13496 pertaining to notification of employee rights under federal labor laws).

#### 2. OTHER LABOR PRACTICES

All laws pertaining to labor and employment practices and child labor (in the United States of America, including, but not limited to, Sections 6, 7 and 12 of the Fair Labor Standards Act of 1938 ("FLSA"), as amended (29 U.S.C. §§ 201-219) and of regulations and orders of the United States Department of Labor issued under Section 14 thereof, Section 12(a) and Section 15(a) (1) of the FLSA and the Walsh-Healy Public Contracts Act (41 U.S.C. §§ 35-45) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-332), and any amendments thereto), as well as with the provisions of any other laws with respect to labor relations, minimum wages and hours of employment, now in effect or hereafter.

#### 3. DATA PRIVACY

(a) All laws pertaining to the processing, transferring and storage of personal data to be provided to Supplier by Buyer, such as the name, address, telephone number, e-mail address, and/or any other information that may make any of Buyer's employees, directors, agents, contractors or other representatives identifiable ("Buyer Personal Data"), including the rules and regulations related to the European Union's General Data Protection Regulation, which became effective in May 2018.



(b) If Supplier does share, transfer, disclose or provide access to Buyer Personal Data to a third party, it shall: (i) be responsible for the acts and omissions of any subcontractor or other third party, that processes Buyer Personal Data on Supplier's behalf in the same manner and to the same extent as it is responsible for its own acts and omissions with respect to such Buyer Personal Data; (ii) ensure such third party is bound by a written agreement that contains the same or equivalent obligations and protections as those set forth in this section; and (iii) only share, transfer, disclose or provide access to a third party to the extent that such conduct is compliant with applicable law.

(c) Supplier shall provide written notice to Buyer as soon as possible and, in no instance in more than forty-eight (48) hours of any suspected incident of accidental or unlawful destruction or accidental loss, alteration, unauthorized or accidental disclosure of or access to Buyer Personal Data or any proprietary information of Buyer of which it becomes aware (a "Security Breach"); thereafter shall take all reasonable measures to contain and remedy the Security Breach, wherever possible; provide Buyer with information regarding the investigation and remediation of the Security Breach, unless restricted by law; not make any notification, announcement or publish or otherwise authorize any broadcast of any notice or information about a Security Breach (a "Security Breach Notice") without the prior written consent of and prior written approval by Buyer of the content, media and timing of the Security Breach Notice (if any), unless required to do so by law or court order; and even where required to do so by law or court order, make all reasonable efforts to coordinate with Buyer prior to providing any Security Breach Notice. In addition, Supplier shall be responsible for providing any notice required by law to the data subjects whose personal data it provides to Buyer.

(d) For any Buyer Personal Data provided to Supplier from any country in the European Economic Area or Switzerland, the parties agree that the terms of the Model Contract Clauses adopted by the European Commission in Decision 2010/87/EU control and are incorporated herein by reference.

#### **4. CONFLICT MINERALS**

Supplier recognizes, consistent with the public policy underlying enactment of the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), which apply to Buyer, the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC countries"). Accordingly, Supplier commits to comply with Section 1502 of the Act and its implementing regulations, and provide Buyer with information it needs to comply with the applicable legislation; to the extent Supplier is not a "Registrant" as defined in the Act,



Supplier shall comply with Section 1502 of the Act and its implementing regulations except for the filing requirements. In particular, Supplier commits to have in place a supply chain policy and processes to undertake (i) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides Buyer; (ii) due diligence of its supply chain, following a nationally or internationally recognized due diligence framework, as necessary, to determine if Conflict Minerals sourced from the DRC countries directly or indirectly support unlawful conflict there, and (iii) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Supplier shall take all other measures as are necessary to comply with Section 1502 of the Act and its implementing regulations, including any amendments thereto.

## **5. RoHS COMPLIANCE**

Supplier shall ensure that the goods comply with the requirements imposed by the European Union law and regulations on the Directive on Restrictions on Use of Hazardous Substances in Electrical and Electronic Equipment (Directive 2002/95/EC), the European Directive 2015/863/EU of the European Parliament and of the European Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment ("RoHS"), and specifically that the components do not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls ("PBB") or polybrominated diphenyl ethers ("PBDE"), except as permitted by the Annex to RoHS. Supplier shall comply with any amendments to RoHS which the European Parliament may impose, and any further instructions given by Buyer.

## **6. REACH COMPLIANCE**

To the extent the goods contain, or the manufacturing processes for the goods use, chemical substances subject to Global Chemical Regulations or Materials of Concern ("MOC"), as defined below, Supplier shall:

(a) Comply with all Applicable Laws in any jurisdiction in which the goods are manufactured, produced, sold, and/or delivered (the "Global Chemical Regulations"), including but not limited to any: (i) registration, notification, authorization, restriction, or ban obligations, and (ii) hazard classification, labeling, packaging, Safety Data Sheet ("SDS"), or safe use compliance and communication obligations.

(b) Cooperate with Buyer's efforts to comply with the Global Chemical Regulations and applicable customer requirements and to develop products and manufacturing processes that minimize risk to human health and the environment. Such cooperation includes, but is not limited to: (i) investigating and communicating to Buyer



the nature and extent of any MOCs contained in the goods or in the processes used to manufacture, assemble, use, maintain, or repair any goods; (ii) providing all reasonably necessary documentation to verify the material composition, on a substance by substance basis, including quantity of each MOC contained in any goods; (iii) providing Buyer with safe use communications and safety data sheets; (iv) promptly responding to Buyer's requests for information, in the form requested by Buyer, regarding MOC used or intended to be used in connection with the goods and related regulatory controls such as use restrictions and permit and authorization requirements; (v) upon request, cooperating with efforts to obtain necessary regulatory approval(s), including but not limited to registrations and authorizations, for the continued sale to and use of goods by Buyer; and (vi) using the tools and forms provided by Buyer through the Supplier Site or other means.

For purposes of this section, "Materials of Concern" or "MOC" means substances that are (i) subject to Applicable Law or are substances of concern to Buyer or Buyer's customer, and (ii) identified by Buyer in a Materials of Concern list published on [www.corporate.carrier.com/suppliers](http://www.corporate.carrier.com/suppliers) (the "Supplier Site") or provided through other means.

## **7. RESTRICTED PARTY SCREENING**

(a) Supplier shall perform screening on third parties (including sub-tier suppliers) whom Supplier engages or solicits to engage to source goods, perform production activities, or services under the order ("Related Third Parties"). This requirement is intended to ensure that Supplier identifies any Related Third Party that may be subject to prohibitions or other restrictions under applicable Export Control Laws or Sanctions. Supplier shall conduct periodic re-screening on all Related Third Parties on no less than a quarterly basis. Supplier shall maintain records of its screening for a period of five (5) years following completion of screening and make such records available to Buyer upon request. Supplier shall incorporate this provision in all subcontracts with its suppliers or independent contractors with whom Supplier engages or employs, or intends to engage or employ, to perform production activities or services under the order.

(b) Supplier shall provide to Buyer, upon Buyer's reasonable request, the identity of its suppliers and/or the location of manufacture of the goods or any subcomponents of the goods, as applicable, to confirm compliance with legal and regulatory requirements and the order.

## **8. EXPORT COMPLIANCE**

(a) Supplier shall comply, and cause each of its subsidiaries, agents and contractors to comply, with respect to all activities and transactions contemplated under



this order, with all applicable export control laws, regulations, and orders (including the U.S. Export Administration Regulations administered by the Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), 15 C.F.R. parts 730-774) ("Export Controls") and economic sanctions laws and trade embargoes (including those administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") and U.S. Department of State ("Sanctions").

(b) Supplier shall notify Buyer promptly and in writing if Supplier, any of its subsidiaries, or any of their respective officers or directors, or Supplier's vendors working on this order, in each case, becomes, or there is a reasonable basis that such party will become, a Restricted Party.

(c) Supplier (i) represents and warrants to Buyer that such goods are not subject to the jurisdiction of the ITAR and do not appear on the United States Munitions List ("USML"), and (ii) shall provide Buyer with (a) the applicable Harmonized Tariff Schedule Number and (b) the Export Control Classification Number ("ECCN") of such goods, software, technology or services that are controlled by the EAR, to include the ECCN of parts and components if such classification differs from the ECCN of the goods or software and (c) any analogous classification under any other Applicable Law.

## **9. ENVIRONMENTAL, HEALTH AND SAFETY REQUIREMENTS**

To the extent that Supplier will be (a) working on the premises of the Buyer sites, (b) working under the direct supervision of Buyer site employees, or (c) providing installation, maintenance or service work on behalf of a Buyer site and pursuant to the Buyer site's instructions, Supplier shall be subject to the Buyer site Contractor Environment, Health & Safety Program ("EH&S Program"). Supplier agrees to comply with the requirements of the EH&S Program and with all Applicable Laws, rules and regulations, including without limitation, the Occupational Safety and Health Act, 29 U.S.C. 651 et. seq., and any other Applicable Laws dealing with protection of the environment, health and safety. Prior to commencing work, Supplier may be subject to an assessment by the site to (d) evaluate Supplier's EH&S qualifications and past performance with regard to safe and environmentally sound work practices, (e) evaluate the EH&S risks associated with the work to be performed by Supplier and (f) establish EH&S requirements for Supplier based on the degree of hazard and risk and/or type of work to be performed. The extent of this review shall be at the discretion of the site, based on the potential safety and/or environmental impact of the work performed. If requested by the site, Supplier shall provide information to aid the Buyer site in making the assessment. Where Supplier falsifies information describing its qualifications or fails to follow the EH&S Program, Supplier shall be in default and Buyer may terminate the order.





## 10. IMPORT COMPLIANCE

The following provisions apply to shipments where Supplier is the importer of record:

(a) Customs/Country of Origin Requirements. Supplier shall ensure that all goods have the appropriate country of origin markings for the jurisdiction the goods are shipped to.

(b) Free Trade Agreement Support. Supplier agrees to timely respond to Buyer's (i) country of origin certificates, or (ii) free trade agreement certificate requests.

(c) Duty Drawback. Upon request, Supplier agrees to furnish completed drawback certificates and retain substantiating documentation pursuant to 19 U.S.C. Section 1313. Supplier agrees to assign to Buyer any and all of Supplier's U.S. Customs duty drawback rights related to the goods furnished hereunder in order for Buyer to seek duty drawback. Such duty drawback rights shall include rights developed by direct identification, substitution and duty drawback rights obtained from sub-tier suppliers related to the goods. Supplier agrees to inform Buyer of the existence of such duty drawback rights of which Supplier becomes aware. Supplier agrees to furnish upon request documents that Buyer reasonably requires, including, but not limited to, proof of importation (e.g. U.S. Customs and Border Protection Form 7501, invoices, packing lists, bill of lading, delivery records, etc.) and signed U.S. Customs and Border Protection Form 7552 (Certificates of Manufacture and Delivery or Certificates of Delivery), for Buyer to recover import duties related to the goods. Supplier further agrees to provide such assistance to Buyer as requested in connection with the recovery of said import duties.

## 11. ADDITIONAL IMPORT COMPLIANCE

The following provisions apply to shipments where Buyer is the importer of record:

(a) Duty Drawback. Upon request, Supplier agrees to provide information reasonably requested by Buyer to complete its Drawback applications, including but not limited to the Supplier's US Customs Entry Summary, Invoice, Packing list and import bill of lading.

(b) Customs/Country of Origin Requirements. Supplier shall ensure that all information provided on the Bill of Lading and or commercial invoice is accurate. Supplier will ensure that country of origin marking and identification requirements are met. Supplier shall provide certificates of origin with each shipment.



(c) Anti-Dumping/Countervailing Duties. Supplier shall promptly and no later than within seven (7) days of receipt, inform Buyer of any correspondence, questionnaires or orders received by them or their industry representatives from USITC or Commerce, regarding their manufacture, supply, trading or export of the subject goods and shall provide Buyer any documentation necessary to establish, where applicable, that imported goods supplied by or through Supplier are outside the scope of anti-dumping/countervailing/safeguard/additional duty, investigation and/or orders.

(d) Security Programs. Buyer participates in a variety of customs security programs such as CTPAT, PIP, AEO (all, including other local equivalents, "Security Programs"). Supplier agrees to (i) provide any and all information required for Buyer's participation in the relevant Security Program; (ii) follow shipping requirements required by the Security Program as communicated by Buyer; and (iii) use reasonable efforts to implement security measures required by the Security Program and communicated by Buyer.

(e) Free Trade Agreement Support. Supplier agrees to timely respond to Buyer's (i) country of origin certificates, or (ii) free trade agreement certificate requests. ISF. For international ocean shipments to the United States, Supplier shall cooperate with Buyer as necessary to facilitate required Importer Security Filing ("ISF filing"). Supplier acknowledges that ISF filings must be made timely, and agrees to provide the necessary information to Buyer's designated agent no less than 72 hours before the goods are loaded onto the vessel at the port of departure. The detailed ISF filing requirements are set forth at:

<https://www.cbp.gov/border-security/ports-entry/cargo-security/importer-security-filing-102>