

FIELD AVIATION GENERAL TERMS AND CONDITIONS FOR CUSTOMERS ORDERING FROM THE MISSISSAUGA FACILITY (FACI-GTC-004)



1. SCOPE

1.1 Terms and Conditions

These Terms and Conditions apply to the sale by FIELD AVIATION to Customer of Goods and/or Services requested by Customer and accepted by the execution of this Proposal and submission of a Purchase Order to FIELD AVIATION.

2. DEFINITIONS

2.1 Definitions

"**Agreement**" means these Terms and Conditions together with the accompanying Proposal as later defined;

"**Confidential Information**" means any information which either party considers proprietary, which is not generally known to the public and which the disclosing party delivers or communicates to the receiving party in confidence.

"**Goods**" or "**Services**" or "**Product**" means those goods or services or final product identified in the Agreement and/or Purchase Order, which Customer wishes to purchase from FIELD AVIATION and which may be changed by mutual agreement of the parties.

3. ORDERING PROCEDURE

3.1 Purchase Price

The Purchase Price for the requested Goods and Services shall be as offered to Customer in a valid, specific, written quotation within a proposal issued by FIELD AVIATION (a "Proposal"). The Proposal shall be valid for thirty (30) days after issuance, except as otherwise provided for in the Proposal. Unless otherwise stated, prices may be subject to adjustment for foreign exchange, purchase or sales tax, customers tariff or other direct taxes, between the date of Proposal and the date of shipment. FIELD AVIATION may change its prices at any time without prior notice to Customer, but such change shall not affect any outstanding and valid Proposal.

3.2 Purchase Order

Customer may purchase the Goods and Services by delivering to FIELD AVIATION the Proposal accepted and executed by an authorized signatory of the Customer and by thereafter sending a purchase order which shall constitute a firm offer to purchase and shall identify by quantity, part number and description the Goods or Services that Customer desires to purchase, the price thereof in accordance with the Proposal (the "Purchase Price"), the billing and shipping address, and the requested delivery dates (a "Purchase Order"). All Purchase Orders are subject to these Terms and Conditions and to review and written acceptance by FIELD AVIATION.

3.3 Taxes and Duties

The Purchase Price shall not include, and Customer shall reimburse FIELD AVIATION for, any and all taxes and/or duties assessed against or payable by FIELD AVIATION in connection with the sale of the Goods or Services, except for taxes imposed upon FIELD AVIATION's net income. If Customer claims to be exempt from any sales, use, excise or other taxes, then Customer shall deliver to FIELD AVIATION the appropriate exemption certification.

3.4 Packing and Shipping

The Purchase Price shall not include, and Customer shall pay FIELD AVIATION for, any and all charges for packing requirements exceeding FIELD AVIATION's commercial standards and Customer shall pay for, or promptly reimburse FIELD AVIATION if FIELD AVIATION pays for, the shipment of any Goods from FIELD AVIATION's facility to the destination designated by Customer. FIELD AVIATION shall prepay all applicable shipping charges, unless (a) the Purchase Order requests shipment "Collect" and identifies the carrier and Customer's account number with that carrier, and (b) Customer or its agent coordinates shipment with FIELD AVIATION in advance of delivery.

4. PAYMENT TERMS

4.1 Invoice

Prior to shipment of any Goods or completion of any Services by FIELD AVIATION or as per the mutually agreed payment terms and milestones schedule set forth in the Agreement, FIELD AVIATION shall issue to Customer an invoice(s) describing the requested Goods and the Purchase Price thereof. Each invoice shall also show the total amount due to FIELD AVIATION from Customer (the "Invoice Total"), which shall include the Purchase Price and any applicable taxes and other shipping costs or charges that are the responsibility of the Customer.

4.2 Payment

Payments shall be made prior to the shipment of any Goods or completion of any Services by FIELD AVIATION or as otherwise stipulated in the Agreement. Interest shall accrue on any past due amount at the lesser of (a) 18% per annum, or (b) the maximum rate permitted by applicable law.

4.3 Credit Rating

If Customer's credit rating is downgraded or Customer's payment history with FIELD AVIATION under this Agreement indicates that, in the opinion of FIELD AVIATION, Customer is unable or unwilling to comply with the payment terms of this Agreement, then, notwithstanding any provision of this Agreement to the contrary, FIELD AVIATION may, without prejudice to any other remedy which it may have at law or in equity, reject any unaccepted Purchase Order or delay shipment of any Goods until FIELD AVIATION and Customer have agreed on revised payment terms. If, despite any default by the Customer, FIELD AVIATION elects to continue to make shipments, its action shall not constitute a waiver of any default by the Customer or in any way preclude FIELD AVIATION's right to exercise any other remedies available to it herein, in law or in equity. Upon the cancellation of any order, the Customer undertakes to indemnify FIELD AVIATION against all losses, including the cost of all labour, materials, overhead, damages, charges and expenses arising out of the order and its cancellation.

5. DELIVERY, TITLE AND RISK OF LOSS

5.1 Delivery

Delivery shall be made F.C.A (Incoterms, 2010), FIELD AVIATION's facility. FIELD AVIATION shall pack each item for shipment in accordance with FIELD AVIATION's commercial standards, except as the parties may otherwise mutually agree. In the absence of express instructions from the Customer, FIELD AVIATION shall, in its sole discretion, determine best shipment, routing and common carrier to be utilised. FIELD AVIATION will use reasonable commercial efforts to ship orders within the time quoted for shipment. Times quoted for shipment will date from acceptance by FIELD AVIATION of the Customer's order, and will be subject to the issuance of any necessary import permits and licenses.

5.2 Title

Title to the Product shall vest in Customer upon its payment and delivery to the carrier by FIELD AVIATION. Title to any software, documentation, other Confidential Information and other material, information or data delivered to Customer under this Agreement shall remain vested solely in FIELD AVIATION or its licensors.

5.3 Risk of Loss

Risk of loss or damage to any Product shall pass to Customer upon delivery to the carrier by FIELD AVIATION.

5.4 Export Controls

(a) If any Product delivered or disclosed to Customer under this Agreement is subject to any Canadian export law or regulation, the Export Administration Regulations administered by the United States Department of Commerce, or any other export requirement or law of any country (collectively "Export Requirements"), then Customer shall not export or re-export such Product, documentation, or technology except in compliance with such Export Requirements.

(b) FIELD AVIATION shall provide to Customer a complete list of all controlled or dual use parts or components that FIELD AVIATION will acquire and incorporate in the Product, as per the requirements of any governmental agency having authority over such parts or components including, without limitation, the U.S. Department of Commerce, U.S. Department of State, U.S. Department of Defence, Public Works and Government Services of Canada and the Canadian Department of Foreign Affairs and International Trade. To this end, FIELD AVIATION shall complete and update the list with respect to any items that are identified as being controlled goods in accordance with ITAR and ECCN.

6. ACCEPTANCE

6.1 Acceptance

The Product shall be deemed to have been accepted by Customer when the related risk of loss or damage passes to Customer under this Agreement.

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7. WARRANTY

7.1 Warranty

(a) FIELD AVIATION warrants that the Product to be furnished by FIELD AVIATION hereunder at the time of delivery is free from defects in design (having regard to the state of the art as it existed at the time the design of the defective part was conceived), defects in material and defects in workmanship, excluding normal wear and tear. If any such defect is discovered in any Product within twelve (12) months after its delivery to or acceptance by the Customer, whichever occurs first, hereinafter referred to as the Defect Liability Period, then subject to the provisions of this Article 7, FIELD AVIATION's sole obligation and liability under this Agreement shall be, at its option, to either repair, replace or correct the defective item, free of charge.

(b) Notwithstanding Article 7.1 (a), the provisions of this Article 7 apply only to the Product, excluding any vendor parts. Except as specifically provided under this Article 7, FIELD AVIATION shall have no liability or responsibility for any vendor parts and the warranties for those vendor parts shall be the responsibility of the vendor and a matter as between Customer and vendor.

7.2.1 No Obligation

FIELD AVIATION's obligation under this Article 7 does not extend to any Product which has been altered after its delivery otherwise than by FIELD AVIATION, at FIELD AVIATION's request, or with FIELD AVIATION's prior written approval or from which the manufacturer's trade mark or name or serial numbers have been removed or which have deteriorated through normal wear and tear or through negligence, accident or misuse, otherwise than on the part of FIELD AVIATION or which are consumable items or items with a prescribed shelf life less than the Defect Liability Period defined herein.

7.3 Warranty Claims

(a) Customer shall give prompt written notice to FIELD AVIATION of the discovery of an alleged defect in a Product and shall dispatch to FIELD AVIATION's premises (or elsewhere as directed by FIELD AVIATION) the Product alleged to be defective within 30 (thirty) calendar days of the said discovery. The Product shall be properly packed and marked with the name and full address of Customer accompanied by a defect report explaining the nature and circumstances of the defect arising. At the same time Customer shall forward all particulars of the claim to FIELD AVIATION and the reasons therefore. FIELD AVIATION shall have the exclusive right to determine whether a defective item shall be repaired or replaced. The cost of transportation involved in the return of any Product to FIELD AVIATION under the provisions of this Article 7 shall be the responsibility of Customer as the case may be and the cost of transportation from FIELD AVIATION to Customer as the case may be shall be borne by FIELD AVIATION in cases where such item is proven to have been defective and FIELD AVIATION admits that such defect is covered under this Article 7, otherwise the cost for returning the item shall also be the responsibility of Customer.

(b) Any defective item shall become the property of FIELD AVIATION and any warranty item which has been repaired or replaced shall become the property of Customer.

7.4 Limitation

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, THE PROVISIONS OF THIS ARTICLE CONSTITUTE CUSTOMER'S SOLE REMEDY UNDER THIS AGREEMENT WITH RESPECT TO ANY DEFECTIVE PRODUCT. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ARTICLE, FIELD AVIATION MAKES NO REPRESENTATION, WARRANTY, OR CONDITION OF ANY KIND BY STATUTE, USAGE, CUSTOM OF THE TRADE OR OTHERWISE WITH RESPECT TO THE PRODUCT, AND FIELD AVIATION DISCLAIMS ANY AND ALL IMPLIED WARRANTIES RELATING THERETO, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR ANY INTENDED OR PARTICULAR PURPOSE.

8. DOCUMENTATION

8.1 Documentation

Where applicable, FIELD AVIATION shall deliver to Customer one set of standard documentation relating to any Goods or Services purchased or licensed under this Agreement on suitable media chosen solely by FIELD AVIATION.

9. CLAIMS FOR PATENT INFRINGEMENT

9.1 FIELD AVIATION

Except as otherwise provided in this Article, FIELD AVIATION shall defend Customer against any claim, action or proceeding brought against Customer based upon a substantive allegation that any Product infringes any Canadian or United States patent, copyright, trade secret or other intellectual property right of any third party (a "Claim"), and indemnify Customer against, and hold Customer harmless from, any and all costs and damages finally awarded against Customer that are directly attributable to such Claim, if (a) Customer delivers to FIELD AVIATION written notice of the Claim and any actions taken in connection therewith promptly after Customer first receives notice thereof (and in any event before any of FIELD AVIATION's rights are prejudiced), (b) Customer grants to FIELD AVIATION the sole authority to assume the defence thereof, and the sole right to settle the Claim, through counsel chosen solely by FIELD AVIATION, and (c) Customer reasonably co-operates with FIELD AVIATION in connection therewith.

9.2 Injunction

If any third party obtains an injunction against Customer's use of any Product as a result of any Claim, or if FIELD AVIATION determines, in its sole discretion, that Customer's use of any Product may be subject to a Claim, then FIELD AVIATION may (a) procure for Customer the right to continue to use the Product or (b) replace or modify the Product with a functionally-equivalent or better Product so that Customer's use is not subject to a Claim. If FIELD AVIATION determines that it cannot accomplish either of the foregoing in a commercially reasonable manner, then, upon the request of FIELD AVIATION, (a) Customer shall deliver the Product to FIELD AVIATION, and (b) FIELD AVIATION shall promptly refund to Customer the depreciated value of the Product.

9.3 Limitation

FIELD AVIATION shall have no liability for any Claim based upon or resulting from (a) the use of any Product produced in accordance with Customer's specifications, designs or special instructions, (b) the combination of any Product with any product not provided by FIELD AVIATION, if the Product, alone, would not have resulted in such infringement, (c) the use of any Product in a manner not contemplated by this Agreement or (d) the modification of any Product by any person other than FIELD AVIATION.

9.4 Customer

Customer shall defend FIELD AVIATION against any Claim, and indemnify FIELD AVIATION against, and hold FIELD AVIATION harmless from, any and all costs and damages incurred by FIELD AVIATION arising from such Claim, if the alleged infringement arises out of (a) the use of any Product produced in accordance with Customer's specifications, designs or special instructions, (b) the combination of any Product with any item not provided by FIELD AVIATION, if the Product, alone, would not have resulted in such infringement, (c) the use of any Product in a manner not contemplated by this Agreement or (d) the modification of any Product by any person other than FIELD AVIATION. FIELD AVIATION shall have no obligations under this Article with respect to any such Claim.

9.5 Entire Liability

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, THE PROVISIONS OF THIS ARTICLE CONSTITUTE CUSTOMER'S SOLE REMEDY UNDER THIS AGREEMENT WITH RESPECT TO ANY CLAIM OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHT OF ANY THIRD PARTY. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ARTICLE, FIELD AVIATION MAKES NO REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND WITH RESPECT TO ANY SUCH CLAIM, AND FIELD AVIATION DISCLAIMS ANY AND ALL IMPLIED WARRANTIES RELATING THERETO, INCLUDING BUT NOT LIMITED TO NON-INFRINGEMENT OF ANY RIGHTS OF THIRD PARTIES.

10. INDEMNIFICATION AND LIMITATION OF LIABILITY

(a) NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, REGARDLESS OF THE FORM OR CAUSE OF ACTION WHETHER IN CONTRACT OR TORT OR THE NUMBER OF CLAIMS, AND WHETHER IN RESPECT OF A BREACH OR DEFAULT IN THE NATURE OF A BREACH OF CONDITION OR FUNDAMENTAL TERM OR A FUNDAMENTAL BREACH: (A) NEITHER FIELD AVIATION NOR ANY OF FIELD AVIATION'S SUPPLIERS OR LICENSORS SHALL HAVE ANY LIABILITY TO CUSTOMER FOR ANY PUNITIVE, CONSEQUENTIAL, INDIRECT, INCIDENTAL OR SPECIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, ANY LOST REVENUES OR PROFITS) ARISING OUT OF THIS AGREEMENT.

(b) To the extent that this Agreement covers a Product or Services performed to Customer's specifications, Customer acknowledges that

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FIELD AVIATION is not liable for any defect in design and Customer further agrees to indemnify and hold FIELD AVIATION and all of its officers, agents, servants, subsidiaries and employees, or any of them, harmless from any loss, damage, liability or expense and for all reasonable costs and expenses including legal fees and disbursements, on account of damage to property, and injuries, including death, to all persons arising from any occurrence caused by such defect in design.

11. TERMINATION

11.1 Termination by either party

Either party may terminate this Agreement at any time by delivering to the other party notice thereof if: (a) the other party becomes bankrupt, makes an assignment for the benefit of its creditors, or if its assets vest or become subject to the rights of any trustee, receiver or other administrator; or (b) bankruptcy, reorganisation or insolvency proceedings are instituted against the other party and not dismissed within fifteen (15) days.

1.2 Material Breach

If Customer is in material breach of this Agreement, and the breach continues for more than thirty (30) days after FIELD AVIATION delivers to Customer notice thereof and a reasonably detailed statement of the subject matter of the breach, then FIELD AVIATION may either (a) suspend performance of any or all of its obligations under this Agreement for as long as the breach continues or (b) terminate the Agreement. If FIELD AVIATION chooses to suspend performance of its obligations then said Services will resume upon Customer's remedy of the breach. Any additional costs incurred by FIELD AVIATION occasioned by the stoppage and subsequent resumption of the Services shall be added to the Purchase Price and FIELD AVIATION will be allowed an extension of time in the delivery schedule of the Services, which shall not be shorter than the period of suspension of the Services, in order to complete its obligations hereunder. If FIELD AVIATION chooses to terminate the Agreement then FIELD AVIATION shall be entitled to receive compensation for all amounts due in accordance with the Purchase Price which it has incurred up until the time of termination plus reasonable profit thereon, including reasonable compensation for the resources directly used for winding-up purposes, which total sum shall not exceed the total value of the Purchase Order.

12. EXCUSABLE DELAY

12.1 Excusable delay

If FIELD AVIATION is prevented or delayed, directly or indirectly, from performing any of its obligations under the Agreement by an Excusable Delay as defined herein, FIELD AVIATION shall not be liable for, and shall not be in default under the Agreement on account of, such delay or non-performance and the time fixed or required for the performance of any obligation in the Agreement shall be extended for a period equal to the period during which any such event or the effects thereof shall persist. Excusable Delay means an event or circumstance which is beyond the reasonable control of FIELD AVIATION, its subcontractors and suppliers, and includes, without limitation, the following: (a) force majeure or acts of God; (b) war, warlike operations, act of the enemy, armed aggression, civil commotion, insurrection, terrorism, riot or embargo; (c) fire, explosion, earthquake, lightning, flood, drought, windstorm or other action of the elements, or weather conditions or other catastrophic or serious accidents; (d) epidemic or quarantine restrictions; (e) any legislation, act, order, directive or regulation of any governmental or other duly constituted authority; (f) strikes, lock-out, walk-out, and/or other labour troubles causing cessation, slow-down or interruption of work; (g) delay in obtaining any airworthiness approval or certificate, or any equivalent approval or certification, by reason of any law or governmental order, directive or regulation or any change thereto, or interpretation thereof, by a governmental agency or regulatory authority, the effective date of which is subsequent to the date of the Agreement, or by reason of any change or addition made by FIELD AVIATION as a result of a request of or requirement made by a governmental agency to the compliance program of FIELD AVIATION or of its affiliate, or any part thereof, as same may have been approved by Transport Canada, or change to the interpretation thereof to obtain any such airworthiness approval or certificate or such equivalent.

12.2 Termination

If due to Excusable Delay, delivery of the Product is delayed for more than twelve (12) months after the last day of the original scheduled delivery date for the Product or any revised date agreed to by the parties, either party may within seven (7) days of such day or date terminate the Agreement by giving notice to the other party.

12.3 Obligations and liabilities

Termination under Article 12.2 shall discharge all obligations and liabilities of Customer and FIELD AVIATION hereunder with respect to such delayed Product or Services. FIELD AVIATION shall promptly repay to Customer all advance payments (if any) less amounts due for Services performed and the reasonable and substantiated cost and expenses of material and components (including in-process material and components) procured in the scope of the Services, and of those portions of the Services that have been completed and will be transferred to Customer. FIELD AVIATION's sole liability and responsibility shall be limited to such repayment to Customer, of all the above payments for such Services received by Supplier less any amount due by Customer to FIELD AVIATION.

13. INTELLECTUAL PROPERTY

13.1 For purposes of this Agreement, the term Intellectual Property shall mean patented and unpatented inventions, mask works, copyrighted works, trade secrets, know-how and proprietary information of either party (hereinafter "Background Intellectual Property"). It is mutually understood and agreed that neither party shall acquire, directly or by implication, any rights in any Background Intellectual Property of the other party owned, controlled, acquired, developed, authored, conceived or reduced to practice prior to or outside the performance of this Agreement, including but not limited to, inventions described and claimed in applications for U.S. Letters Patent filed prior to the date of this Agreement, except as expressly provided herein or in any resulting subcontract between the Parties. Such Background Intellectual Property pertaining to each party is proprietary to such party.

13.2 This Agreement does not confer or grant, in any manner whatsoever, any license or right under any patent, trademark, trade secret, maskwork, copyright or other intellectual property right held by FIELD AVIATION unless specifically set forth in the body of the Purchase Order.

13.3 Any invention, discovery, proprietary information, maskwork, software, system, data, or report resulting from the work performed under this Agreement (hereafter "Foreground Intellectual Property") shall be the sole property of the Field Aviation. All patents, copyrights, trade secrets, trademarks, maskworks or other Foreground Intellectual Property resulting from work under this Agreement shall be the sole property of Field Aviation.

14. GENERAL

14.1 Survival

Sections 4, 5.4, 7, 10, 11, 13 and 14 shall survive termination or expiry of this Agreement.

14.2 Notices

Any notice provided hereunder shall be in writing and (a) transmitted by personal delivery, (b) posted by certified first class mail with proper postage, return receipt requested, or (c) transmitted by facsimile transmission. Any such notice shall be effective on the earlier of (a) confirmation of receipt or (b) five (5) days after the date of posting or transmission. All such notices shall be addressed as set forth below the respective party's name and signature on the signature page of the Agreement.

14.3 Expenses

Except as otherwise provided in this Agreement, each party shall bear any and all costs and expenses incurred by it in connection with the performance of its rights and obligations under this Agreement.

14.4 Laws and Regulations

Each party shall comply with all applicable laws, legislative and regulatory requirements of any governmental authority relating to the matters contemplated by this Agreement.

14.5 No Publicity

Except as otherwise provided by applicable law, neither party shall disclose the existence of this Agreement or any of the terms or conditions hereof or otherwise use the name of the other party or any of its affiliates in any press release or other publication, without the prior written consent of such party, provided that FIELD AVIATION shall be entitled to refer publicly to the fact that Customer is its client and Customer shall be entitled to refer publicly to the fact that FIELD AVIATION is one of its suppliers.

14.6 Assignment

Customer shall not assign or otherwise transfer any of its rights or delegate any of its obligations under this Agreement, without the prior written consent of FIELD AVIATION. FIELD AVIATION may assign or otherwise transfer any of its rights or delegate any of its obligations under this Agreement, without the prior consent of Customer.

14.7 No Partnership

Nothing contained in this Agreement shall confer upon any person other than the parties any rights under this Agreement. Nothing contained in this Agreement shall create any partnership, employment, joint venture or agency relationship between the parties.

14.8 Waivers

Except as otherwise provided in this Agreement, no provision of this Agreement shall be modified, supplemented or waived except by a writing executed by the party to be bound thereby. No waiver of any provision of this Agreement shall constitute a continuing waiver of such provision or a waiver of any other provision of this Agreement. Failure by either party at any time to demand performance by the other party, or to claim a breach, of any provision of this Agreement shall not constitute a waiver or otherwise affect the rights of such party.

14.9 Severance

If any provision of this Agreement is, for any reason, held to be invalid, illegal or unenforceable **in any** respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been included.

14.10 Governing Law

This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and shall be treated in all respects as an Ontario contract. Any action, suit or proceeding arising out of or relating to this Agreement shall be brought in the courts of the Province of Ontario and each of the Parties hereby irrevocably submits to the non-exclusive jurisdiction of such courts. The parties expressly exclude the provisions of the United Nations Convention on Contracts for the International Sale of Goods (the Vienna Convention, 1980), from the terms of this Agreement. Each party waives any right and agrees not to have any dispute under this Agreement tried or otherwise determined by a jury, except where required by law.

14.11 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior oral or written agreements, commitments, quotations, proposals, representations, warranties or understandings of any nature whatsoever between the parties with respect to the subject matter hereof. These terms and conditions of sale apply to all quotations, and any subsequent supply of Products or Services by FIELD AVIATION to Customer. Acceptance of any Purchase Order is made upon the express understanding that it will be governed by the terms and conditions set out herein, and that any additional or conflicting terms and conditions accompanying a Purchase Order shall, absent express agreement to the contrary, be void and of no force or effect. In the event of any conflict between any provision of these general terms and conditions and any provision of the Agreement, (a) the provision of this Agreement shall prevail, and (b) to the extent possible, the provisions shall be construed to minimise the conflict. In the event of any conflict between any provision of this Agreement or these general terms and conditions and any provision of any Customer Purchase Order, (a) the provision of the Agreement shall prevail, and (b) the provision of the Purchase Order shall have no force or effect whatsoever.

14.12 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one and the same instrument.