

NOTICE: ANY ORDER AS ACCEPTED BY WHIPPANY ACTUATION SYSTEMS, LLC ("WAS" or "Seller") IS SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN, WHICH TERMS AND CONDITIONS ARE MADE A PART OF ANY ORDER ACCEPTED BY WAS.

These Terms and Conditions are: 1) printed on the backside of, attached to, or referenced with WAS's order acknowledgment, 2) a separate document as may be attached to or referenced on the face of the WAS invoice, 3) automatically included in any order acknowledgement by WAS, and 4) available for viewing on the WAS website. These Terms and Conditions are the only agreed to terms and conditions of sale and warranty of Goods made by Seller to Buyer. Notwithstanding anything herein to the contrary, if a contract signed by both parties exists covering the sale of Goods or performance of services covered hereby, the terms and conditions of that contract will prevail to the extent there is inconsistency with these Terms and Conditions.

1. **DEFINITIONS.** The following definitions, when capitalized and used herein, carry the intended meaning as written:

(a) "Agreement" shall mean the actual bargain between the Buyer and Seller. These Terms and Conditions shall be all the terms and conditions contained as a part of the Agreement and no other terms and conditions, conflicting or in addition to, exist unless specifically contained in writing and duly signed and dated by a corporate officer of Seller.

(b) "Buyer" shall mean the individual or organization identified as the Buyer on the face of the document to which these Terms and Conditions apply.

(c) "Goods" shall mean the items of movable property identified as the Goods, which are being sold by the Seller to the Buyer under these Terms and Conditions or the Agreement.

2. **PRICE.** All prices for Goods are subject to change without notice at any time prior to acceptance of the Buyer's order by Seller, at which time the prices become firm upon Seller's acceptance of the Buyer's order, which Seller's acceptance of Buyer's order automatically includes these Terms and Conditions. Seller reserves the right, by providing notice to Buyer at any time before Goods delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the Seller's control (such as, without limitation, any increase in the costs of labor, materials, or other costs of manufacture or supply).

3. **TAXES AND COST OF TRANSPORTATION.** The price for the Goods reflected herein does not include any applicable federal, state, or local taxes, duties, customs or any other fees in effect on the date of the Agreement, or subsequently increased, enacted, or levied, nor does it include any costs of transporting the Goods from Seller to Buyer. Buyer is solely responsible for the payment of all such taxes, costs and fees incurred by Seller in excess of any specific Seller obligation identified herein or as provided in writing on the face of the Agreement.

4. **DELIVERY AND SHIPPING TERMS.** Goods or services will be delivered or performed within lead time after receipt and acceptance of Buyer's order. Seller is not liable for any delays, loss or damage in transit. Unless otherwise agreed in writing, Seller shall deliver Goods FCA (Incoterms 2010) Seller's facility (the "FCA Point") using Seller's standard methods for packaging. Buyer shall take delivery of the Goods promptly after receiving notice that the Goods have been delivered to the FCA Point. Buyer shall be responsible for loading, if applicable. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale and Buyer shall pay for Goods shipped, whether such shipment is in whole or partial fulfillment of Buyer's order. If for any reason Buyer fails to accept delivery of Goods on the delivery date or if Seller is unable to deliver Goods on the designated delivery date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up and

Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

5. **TITLE AND RISK OF LOSS.** Title and risk of loss passes onto Buyer at the time of delivery of the Goods at the FCA Point. As security for payment of the Price, Buyer grants to Seller a purchase money security interest in and to all right, title and interest of Buyer in, to and under the Goods, wherever located, whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing.

6. **INSPECTION AND REJECTION OF NONCONFORMING GOODS.**

(a) Buyer shall inspect the Goods within five days of receipt ("Inspection Period"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes documentation reasonably required by Seller. "Nonconforming Goods" means only: (i) Goods shipped are different than identified in Buyer's order; or (ii) the Goods' label or packaging incorrectly identifies its contents.

(b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods or (ii) credit or refund the Price for Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Nonconforming Goods from Buyer, ship to Buyer the replaced Goods to the FCA Point.

The remedies set forth in Section 6(b) are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided in Section 5(b), Buyer has no right to return Goods purchased under the Agreement.

7. **PAYMENT TERMS.** Unless the parties otherwise agree, Buyer shall pay all invoiced amounts to Seller net thirty (30) days from the date of Seller's invoice. The extension of credit to Buyer shall be subject to change by Seller at any time. Unless the parties otherwise agree, Buyer shall make all payments by check, in U.S. dollars. Buyer shall pay interest on late payments at the lesser of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for costs incurred in collecting late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller is entitled to suspend the delivery of any Goods or services if Buyer fails to pay any amounts when due hereunder. Buyer shall not withhold payment of any amounts due by reason of any set-off of a claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

8. **QUANTITY.** If Seller delivers to Buyer a quantity of Goods different than the quantity set forth in the Agreement, Buyer may not object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Agreement.

9. **LIMITED WARRANTY.**

(a) Seller warrants that the Goods sold as new are free from defects in materials and workmanship at the time of shipment.

(b) Seller warrants that Goods sold as repaired, overhauled, or exchanged will be free from defects in material and workmanship for the specific item(s) within the Goods that were replaced, repaired, overhauled, or exchanged by Seller at the time of shipment.

(c) The warranty period for new, overhauled or exchanged Line Replaceable Units (LRU) is twelve (12) months from date of shipment to Buyer. The warranty period for repaired units is equal to the balance of the original warranty or six (6) months from date of shipment to Buyer, whichever is greater.

(d) The Warranty set forth in (a), (b) and (c) above (the "Warranty") is EXPRESSLY MADE SUBJECT TO THE FOLLOWING PROVISIONS:

(1) The Warranty shall not apply to any Goods which have been repaired or altered by anyone other than the Seller in any way such that, in Seller's sole and absolute judgment, said repair or alteration could affect or effect the Goods' original integrity, the original OEM representation of the Goods, or the Goods' stability, reliability, or performance. In addition, the Warranty shall not apply to any Goods which have been subject to use as not intended or used in any fashion or in any application not recognized by Seller as acceptable, in Seller's sole opinion, or negligence, or accident, nor to any Goods which have not been used in strict accordance with Sellers' printed instructions, nor to any Goods not installed or not operated in compliance with Sellers' specifications, nor to any Goods which have been damaged because of their use, or the use of the Goods and any other materials or equipment after the Buyer has any information, any actual knowledge, or suggestive/derived knowledge, of such damage and/or associated defect of the Goods, material, or equipment.

(2) The extent of Seller's liability for any breach of the Warranty shall be strictly limited to repairing or replacing (whichever of the two options Seller, in its sole discretion, shall elect) any confirmed defect in the Goods directly attributable to Seller's workmanship or materials, with the Goods to be returned to Seller's facility in at the complete risk and expense of the Buyer; provided, however, that no Warranty consideration shall be effective unless (i) Seller receives a written claim completed by Buyer (with sufficient detail as required by Seller) within thirty (30) days after the discovery of the purported Goods' defect and before expiration of the Warranty, and (ii) Seller is provided the opportunity to conduct the verification tests described in the next succeeding sentence.

In the event a written claim regarding a purported Goods' defect is made by Buyer under the Warranty, Seller shall have the right (but not the obligation) to verify by its own representative(s) the nature and extent of the purported Goods' defect being claimed PRIOR TO THE TIME THAT THE GOODS ARE RETURNED TO SELLER and if, in fact, no breach of Warranty has occurred, the Buyer shall pay a reasonable per diem fee for the reasonable expenses incurred by such Seller representative(s). After the purported claim of a Goods' defect has been acknowledged and/or reviewed by the Seller's representative(s), and written notice and authorization has been provided by Seller to the Buyer (or after Seller has notified the Buyer in writing that Seller will conduct the verification tests at Seller's facility) the Buyer shall, at Buyer's risk and expense, return the Goods in question to Seller's facility for review of any Warranty consideration.

Seller will have no obligation whatsoever to accept delivery of any returned Goods unless the provisions set forth in this subparagraph (2) have been satisfied in total. Upon receipt, the purported Goods' defect as claimed by Buyer will be either confirmed or not-confirmed by the Seller. If confirmed, the Seller will repair or replace the item(s) of confirmed defect within the Goods. If the purported Goods' defect is not-confirmed, Seller will notify Buyer, requesting instructions as to what the Buyer chooses to do with the non-warrantable Goods. Any action taken by the Seller regarding the non-warrantable Goods at that point will be at the Buyer's expense.

(3) Seller reserves the absolute right to dispose of, without any recourse, any Goods 30 days after the Buyer has been notified that: 1) the Goods are non-warrantable, or 2) the Goods have been denied Warranty with no response from the Buyer regarding the handling, disposal, or return of the Goods.

(4) Any Goods that are repaired or replaced by Seller pursuant to subparagraph (2) shall be warranted for the remaining term of the original Goods' Warranty. Any item or Good replaced by the Seller under Warranty becomes the property of the Seller. THE AFORESAID REMEDY IS EXPRESSLY AGREED TO BE THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THE WARRANTY; accordingly, without limitation of the generality of the foregoing, Seller shall not be obligated in any event of breach of said Warranty to return any portion of the purchase price of the Goods or to provide credit for any payments received, in whole or in part.

(e) THE WARRANTIES, OBLIGATIONS AND LIABILITIES, EXPRESS OR IMPLIED, AND ALL OTHER RIGHTS, CLAIMS AND REMEDIES OF BUYER SET FORTH IN THESE TERMS ARE

EXCLUSIVE AND IN SUBSTITUTION FOR, ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY NONCONFORMANCE OR DEFECT IN THE GOODS OR SERVICES PROVIDED UNDER ANY ORDER, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR MERCHANTABILITY OR FITNESS; ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY ARISING FROM THE NEGLIGENCE OF SELLER OR ANY MANUFACTURER OF AIRCRAFT INCORPORATING THE PRODUCTS; AND ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OR DAMAGE TO ANY AIRCRAFT.

(f) The LIMITED WARRANTY and LIMITATION OF LIABILITY herein shall solely apply unless otherwise agreed to in writing in a WAS authored and created document, signed by a corporate officer of the Seller.

(g) NO WARRANTY OF ANY NATURE, EXPRESS OR IMPLIED, IS MADE TO ANY "CONSUMER" AS THAT TERM IS DEFINED BY SECTION 101 OF THE MAGNUSON-MOSS WARRANTY, FEDERAL TRADE COMMISSION IMPROVEMENT ACT. AS SUCH, THE MAGNUSON-MOSS WARRANTY ACT IS NOT APPLICABLE TO THIS SALE.

(h) Products manufactured by a third party ("Third Party Product") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 8(a), and for the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT.**

10. LIMITATION OF LIABILITY.

(a) **IN NO EVENT WILL SELLER OR ANY MANUFACTURER OF AIRCRAFT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO NONCONFORMANCE OR DEFECT IN GOODS OR SERVICES OR ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

(b) **IN NO EVENT WILL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNTS PAID TO SELLER FOR THE GOODS SOLD OR SERVICES PERFORMED.**

(c) The limitation of liability set forth herein will not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.

11. COMPLIANCE WITH LAW. Buyer shall comply with all applicable laws, regulations and ordinances and maintain in effect all licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under the Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate the Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

12. TERMINATION. In addition to any remedies set forth herein, Seller may terminate the Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under the Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences

or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

13. CONFIDENTIAL INFORMATION. All non-public, confidential or proprietary information of Seller, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Agreement is confidential, solely for the use of performing the Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation hereof. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) obtained by Seller on a non-confidential basis from a third party who was not under an obligation of confidentiality.

14. FORCE MAJEURE. Seller shall not be liable to Buyer, nor be deemed to have defaulted or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond Seller's reasonable control including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage. If, due to any such circumstances, shortages should occur in Seller's supply of any specific Goods, Seller may allocate deliveries to its customers as it determines in its sole discretion.

15. AMENDMENT AND MODIFICATION. These Terms and Conditions may only be amended or modified in a writing that specifically states that it amends these Terms and Conditions and is signed by each party.

16. WAIVER. No waiver by Seller of any of the provisions of the Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

17. ASSIGNMENT. Buyer shall not assign any of its rights or delegate any of its obligations under the Agreement without Seller's prior written consent. Any purported assignment or delegation in violation hereof is null and void. No assignment or delegation relieves Buyer of any of its obligations under the Agreement.

18. RELATIONSHIP OF THE PARTIES. The relationship between the parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties. Neither party has authority to contract for or bind the other party in any manner whatsoever.

19. NO THIRD-PARTY BENEFICIARIES. The Agreement is for the sole benefit of the parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

20. GOVERNING LAW. All matters arising out of or relating to the Agreement are governed by and construed in accordance with the laws of New Jersey without giving effect to any choice or conflict of law provision or rule (whether of New Jersey or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of New Jersey. The United Nations Convention on the International Sale of Goods does not apply to any matter arising out of or relating to the Agreement.

21. SUBMISSION TO JURISDICTION. Any suit, action or proceeding arising out of or relating to the Agreement shall be instituted in the federal courts of the United States or the courts of New Jersey, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

22. NOTICES. Each notice, request, consent, claim, demand, waiver and other communication hereunder (each, a "Notice") must be in writing and addressed to the parties at the addresses set forth on the face of the order, quotation or confirmation of sale accompanying these Terms or to such other address that the receiving party may designate in writing. All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in the Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

23. SEVERABILITY. If any term or provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

24. SURVIVAL. Provisions of these Terms that by their nature should apply beyond their terms will remain in force after any termination or expiration of the Agreement including, but not limited to, the following: Compliance with Laws, Confidentiality, Governing Law, Submission to Jurisdiction and Survival.