



## MONTANA PRECISION PRODUCTS, LLC

### TERMS AND CONDITIONS OF PURCHASE

DATED: AUGUST 5, 2020

#### 1. Contract Formation

This Purchase Order (as defined below) constitutes the complete and exclusive contract between Montana Precision Products, LLC ("MPP") and "Your Company" (referred to as "Supplier") with respect to the products, services and deliverables, unless this Purchase Order (or "PO") is being issued under a purchase agreement (as defined below). This Purchase Order may be modified only in writing signed by MPP. MPP hereby objects to and rejects any inconsistent, additional or different terms, including, but not limited to, terms contained in any verbal or written offers, proposals, quotations, invoices, order acknowledgments, warranty cards, and in any other statements provided by Supplier. No course of dealing or usage of trade shall be part of the contract between MPP and Supplier.

Supplier shall be deemed to have accepted this Purchase Order if Supplier (i) sends MPP a written acknowledgment; (ii) delivers any product or service ordered (including any deliverable); or (iii) commences any work on any product or service set forth in this Purchase Order, including any deliverable. Upon acceptance, Supplier agrees to be bound by and to comply with all terms set forth in this Purchase Order. MPP may revoke its offer as contained in this Purchase Order at any time before Suppliers acceptance.

Notwithstanding anything herein to the contrary, this Purchase Order shall take precedence over any alternative terms in any other document connected with this transaction, unless such alternative terms are contained in a separately written purchase agreement previously signed by the Parties ("Purchase Agreement") that pertains to the Products, Services and/or Deliverables described in this PO; and the Parties have expressly agreed that the Purchase Agreement's terms override these PO Terms (as defined below) in the event of a conflict.

These MPP Purchase Order Terms (or "PO Terms"), the terms contained on the face of this Purchase Order, and any MPP provided attachments, samples, drawings or specifications referred to herein, collectively constitute this "Purchase Order" or "PO". This PO constitutes MPP's offer to purchase from Supplier those materials, products and equipment ("Products"), as well as those services ("Services"), set forth in this PO. This PO also includes all Deliverables Supplier provides MPP. "Deliverables" means all items in tangible and intangible form, including inventions, discoveries, works of authorship, programs, derivative works, source code, object code, ideas, techniques, methods, processes, information, data, documentation and materials, that Supplier and/or Supplier's Personnel create, prepare or deliver to MPP, or otherwise produce, conceive, make, propose or develop as a result of this PO in the context of rendering the Services. "Supplier's Personnel" means all persons and entities providing any Products, Services and/or Deliverables, including without limitation Suppliers employees, agents, contractors, subcontractors and Suppliers, as well as anyone directly or indirectly employed or retained by any of them. "MPP Affiliate" means any entity (including but not limited to, joint ventures or joint venture partners, corporations, limited liability companies, partnerships, limited partnerships, business trusts or other entities, subsidiaries, businesses, operating divisions, units or P&L's thereof) that is directly or indirectly in control of, controlled by, or under common control with MPP, whether now existing, or subsequently created or acquired. MPP and Supplier may each be referred to herein as a "Party" or together as the "Parties." All other capitalized terms used in these PO Terms shall have the meanings ascribed to them as set forth herein.



## 2. Prices, Invoicing, and Payment

a. The Products, Deliverables, and Services will be provided at the rates set forth in the Purchase Order and are not subject to change. No additional charges of any kind shall apply, unless specifically agreed to in writing by MPP. Except as otherwise agreed between the Parties in writing, Supplier shall be responsible for all costs and expenses incidental to the performance of the Supplier's obligations under this PO, including all costs of doing business incurred by Supplier, and MPP shall have no obligation to Supplier or Supplier's Personnel for any such fees or expenses. Neither periodic payments nor final payment shall constitute evidence that the Products or the Services were provided acceptable manner to, or other accepted by, MPP.

b. The charges shall not include applicable transaction taxes. If Supplier is required to pay any federal, state, county, provincial or local value added, sales and use, and/or goods and services tax, or similar applicable tax(es) by law based on the Services and Products provided, Supplier shall include a line item for such taxes on all invoices (identifying type and amount thereof) and shall assume sole responsibility for tracking such taxes. Supplier shall ensure that the charges are invoiced to MPP in accordance with applicable rules so as to allow MPP to reclaim any such value added and/or similar tax from the appropriate government authority. Supplier shall timely remit to the appropriate governmental tax agency all such taxes collected from MPP. Nothing in this PO, however, shall require MPP to pay any payroll, franchise, corporate, partnership, succession, transfer, income, excise, profits or income tax of Supplier's. In the event MPP is required by applicable law, regulation or tax authority having jurisdiction over Supplier's activities in connection with this Purchase Order, or requires MPP to withhold taxes for which Supplier is liable, MPP will deduct such withholding tax from payment to Supplier and provide to Supplier a valid tax receipt in Supplier name. If Supplier is exempt from such withholding taxes as a result of a tax treaty or other regime, Supplier shall provide to MPP a valid tax treaty residency certificate or other tax exemption certificate at a minimum of thirty (30) days prior to payment being due. Should either Party realize that any tax included or omitted as a result of the transactions hereunder was made in error, the Parties shall cooperate to resolve such overpayment or underpayment.

c. Supplier is required to provide a separate, original invoice for each shipment under this PO. Supplier will submit an invoice no later than 30 days after completion of the Services or delivery of the Products or as specified in the Purchase Order.

d. MPP will pay for the Products within the negotiated days referenced on the face of the Purchase Order after the later of either (i) the date of MPP's receipt of the applicable invoice, or (ii) the date that acceptable Products are received by MPP (but not earlier than the specified delivery date) ("Net Payment Date"). In the event the Purchase Order does not specify a net payment amount, MPP will pay any of the undisputed amount within 45 days of the Net Payment Date. MPP may withhold payment of any disputed amount of payment pending good faith resolution of the disputed amount.

## 3. Termination

a. In the event a Party breaches any material obligations hereunder, the non-breaching Party may terminate this PO if the breach has not been cured within thirty (30) calendar days of receipt of written notice of such breach by the non-breaching Party or within such additional cure period as the non-breaching Party may authorize in writing (provided, however, that the non-breaching Party may terminate immediately upon the breaching Party's receipt of written notice from the non-breaching Party to the extent the breach is incapable of cure).



b. MPP may terminate this PO without cause with thirty (30) days prior written notice to Supplier. Notwithstanding anything to the contrary, MPP's liability and Suppliers exclusive remedy for such termination by MPP is limited to MPP's payment for Products, Services and Deliverables provided and accepted in writing by MPP prior to the effective date of said termination.

c. Termination shall not prejudice either Party or affect either Party's right to require performance of any obligation due at the time of termination. It is acknowledged by both Parties that the rights and obligations of the Parties set forth herein which by their nature would continue beyond the termination or expiration of this PO.

#### **4. Order Changes**

MPP may at any time, by written notice to Supplier, make changes in the drawings, specifications, quantities, delivery schedules and shipping instructions under this Purchase Order, and Supplier agrees to immediately comply with such written direction. If any such change increases or decreases the cost of performing or the time required for performance of this Order, an equitable adjustment in prices and/or schedules will be considered by MPP, provided that any claim by Supplier for such adjustment is presented in writing with supporting documentation to MPP within 10 business days from the date of MPP's notice to Supplier. No changes whatsoever will be initiated by Supplier without MPP's written approval. Supplier will proceed with performance of such written changes pending negotiation of any equitable adjustment.

#### **5. Delivery**

a. If Supplier for any reason anticipates that deliveries of Products, Deliverables and/or Services shall not be made as required by this PO, Supplier shall immediately give MPP written notice setting forth the cause(s) of the anticipated delay. If delay or inability to perform arises from interruption of supply or scarcity of raw materials or parts used by Supplier, MPP's orders shall be given priority in production scheduling. MPP reserves the right, without liability, to take any or all of the following actions if for any reason Supplier does not substantially comply with Suppliers Product, Deliverables and/or Services delivery obligations: (i) assess a late delivery fee of no more than 1.0% per day of the invoice amount of late deliveries of Products, Deliverables and/or Services; (ii) submit a revised PO; (iii) terminate this PO in whole or in part and purchase the Products, Deliverables and/or Services elsewhere, and Supplier shall be liable for any resultant costs; (iv) direct Supplier in writing to ship by a method other than that indicated in this PO, work such overtime or do whatever is necessary to avoid the delay, and pay any and all premium transportation charges, concessions to MPP's customers, liquidated damages, and any other costs and expenses incurred by MPP; or (v) seek specific performance of Suppliers obligation to deliver. The foregoing is in addition to all other rights or remedies available to MPP at law or in equity.

b. Supplier shall prepare Products for shipment and secure the lowest transportation rates (unless a premium method is specified on the face hereof) and comply with all carrier regulations. No charges are allowed for packing, crating, freight express or cartage unless authorized by MPP in writing. Packaging must be completed in a way that precludes Products from being damaged in transit. Upon MPP's request, all shipment containers for Products shall be labeled in accordance with MPP's Bar Code Shipping Label Instructions. Supplier shall submit example of labels for approval within sixty (60) days if requested.



- c. Supplier shall use only MPP-approved carriers and forwarders for transportation of Products and Deliverables. Supplier shall reimburse MPP for all costs and expenses incurred by reason of shipment by method or carrier not approved by MPP in writing and in advance.
- d. Time is of the essence in the performance of this Order by Supplier, and Supplier will take all necessary action, both normal and extraordinary, to ensure timely deliveries.
- e. Unless otherwise stipulated and agreed on the face of the PO, title and risk of loss to Products will pass to MPP at MPP's dock or at the dock of MPP's designee, upon completion of unloading of the Products and Supplier shall bear the risk of loss of the Products until such delivery. If the Products are to be delivered in installments, title to each installment shall pass in the same way as provided in this PO.
- g. MPP's weight and count are conclusive, and MPP will have no liability for payment for Products delivered in excess of the quantity ordered. Excess Products may be returned to Supplier at Supplier's expense. Any other type of unauthorized shipment, which results in excess transportation charges, must be fully prepaid by the Supplier.
- h. MPP will have the right but not the obligation to inspect the Products before paying for or accepting them. MPP's action in paying for or accepting any Products will not constitute a waiver of any of MPP's rights or remedies, including MPP's right to revoke acceptance and return any part of the Products or MPP's right to make a claim for damages because of the failure of the Products to conform to this Order.
- i. For all non-conforming Products, Supplier will provide MPP, at MPP's election, a full refund or replacement of the Products, at Suppliers risk and expense, including labor, transportation, and material cost, including overhead and general and administrative expense, reasonable incurred by the MPP. MPP may, at its option, purchase substitute Products in lieu of non-conforming Products, and Supplier will be liable for the difference in costs, less expenses saved by MPP. MPP's rights herein will be in addition to all other rights of MPP under applicable law.

## 6. Warranties

- a. Supplier shall represent and warrant that Supplier has all power, authority, rights and licenses, to provide the Products, Services and Deliverables.
- b. Supplier warrants that all Products delivered will strictly conform to the Order and all applicable specifications, quality documents and drawings, will be of good design, material, and workmanship, will be free of defects (whether latent or patent), will be merchantable and fit for their intended purpose, are free from design defects, are non-toxic, and present no abnormal hazards to persons or their environment, and will meet all applicable industrial and governmental standards.
- c. Supplier: (a) warrant that the Services rendered under this PO shall be provided in a good and workmanlike manner executed in a competent and professional manner in accordance with the highest standards and best practices of Suppliers industry; and (b) represent and warrant that Supplier has or shall promptly obtain appropriate agreements with Supplier's Personnel sufficient to enable full compliance with all the provisions of this PO.
- d. Supplier warrants that all Products, Deliverables, and Services shall be provided to MPP free from any claims of any nature, including, without limitation, defects in title, and free of all liens, claims, or encumbrances, and that all Products will be new (unless otherwise specified in this Order) at the time of delivery.



e. Supplier warrants that Supplier shall comply with all applicable laws, legislation, rules, regulations, codes and standards of governmental agencies or authorities having jurisdiction over the activities relating to this PO.

f. Supplier represents and warrants that no Product or Deliverable, in whole or in part, (i) is licensed pursuant to any open source software license; (ii) incorporates, integrates with, links to or is based on any open source software; or (iii) is subject to, any open source software, freeware, or free use software license terms, including, without limitation, the GNU Public License, the GNU Lesser General Public License, the Mozilla Public License, the Common Development and Distribution License, the Eclipse Public License, or any other license that requires in any instance that other software, including, without limitation, the Deliverables, distributed with such software code be (a) disclosed or distributed in source code form; (b) licensed for purposes of making derivative works; and/or (c) redistributed at no charge. Open source software also includes, without limitation, any software subject to an open source license, including, but not limited to, any license meeting the Open Source Definition (as promulgated by the Open Source Initiative) or the Free Software Definition (as promulgated by the Free Software Foundation) or any similar license.

g. Supplier warrants that the Products and Deliverables: (a) do not contain any restrictive devices such as any key, node lock, time-out, time bomb, or other function, whether implemented by electronic, mechanical, or other means, which may restrict or otherwise impair the operation or use of the Deliverables or any material embodying or comprising Deliverables; and (b) shall be free of viruses and other harmful code (including, without limitation, time-out features) which may interfere with the use of the Deliverable(s) regardless of whether Supplier or Supplier's Personnel purposefully placed such code in the Deliverable(s). In addition to exercising any of MPP's other rights and remedies under this PO or otherwise at law or in equity, Supplier shall provide MPP, free of charge, with any and all new versions, upgrades, updates, releases, maintenance releases, and error or bug fixes of the Deliverables (collectively, "Revised Code") which prevents a breach of any of the warranties provided under this PO or corrects a breach of such warranties. Revised Code contained in Deliverables constitutes Deliverables for purposes of this PO.

h. Supplier represent and warrant that no third party software shall be included in the Deliverables without first informing MPP in writing of the particulars thereof and obtaining MPP's express prior written approval thereof.

i. Supplier represents and warrant that no knowledge or information disclosed to MPP by Supplier or any of Supplier's Personnel that in any way relates to Products, Services and/or Deliverables, shall, unless otherwise specifically agreed in advance and in writing by MPP, be deemed confidential or proprietary information to Supplier or Supplier's Personnel, and MPP shall acquire all such knowledge and information free from any restrictions (subject only to Product copyright and patent rights), as part of the consideration for this PO.

k. Supplier shall also transfer to MPP the warranties on Products and Services incorporated into the Products and Deliverables. All warranties will survive any inspections, delivery, acceptance or payment by MPP, and will run to MPP, its successors, assigns and customers, and all users of Products. Supplier will repair or replace, without cost to MPP, all defective or nonconforming Products or Deliverables, and will pay for all other resulting damage, loss or claims arising out of defective or nonconforming Products or Deliverables. Supplier warranties with respect to repaired or replaced Products or Deliverables will be the same as the warranties given with respect to original Products or Deliverables. No approval of Suppliers designs, drawings, samples, test results, procedures, processes, schedules or other items by MPP under this Order will in any way limit or diminish Suppliers warranties hereunder.

## 7. Indemnification

a. Supplier agrees, to the fullest extent allowed by law, to defend, indemnify and hold MPP, including its officers, directors, employees, parent, subsidiaries, affiliates and agents (collectively, the “Indemnified Party”), harmless of and from any claim, loss, cost (including attorneys’ fees), damage, settlement or judgment arising out of the Products, Deliverables, or Services, or to the presence of Suppliers employees, agents or subcontractors on the Indemnified Party’s premises, except to the extent attributable to the sole, direct, gross negligence of the Indemnified Party. This duty to defend, indemnify and hold harmless extends to any legal claim or proceeding, whether based on contract, warranty, infringement, strict liability in tort, negligence or other legal theory, and also extends not only to third-party claims, but also to any claims by the Indemnified Party. MPP is entitled to control Suppliers defense of MPP hereunder.

b. Supplier shall indemnify, defend and hold each Indemnitee harmless from all costs and expenses related to any suit, claim or proceeding brought against any Indemnified Party or their respective customers based on a claim that any article or apparatus, or any part thereof constituting goods or services (including, without limitation, any Product, Service and/or Deliverable) furnished under this PO, as well as any device or process necessarily resulting from the use thereof, constitutes an infringement of any patent, copyright, trademark, trade secret or other intellectual property right of any third party. MPP shall notify Supplier promptly of any such suit, claim or proceeding and give Supplier authority, information, and assistance (at Supplier’s expense) for the defense of same and Supplier shall pay all damages and costs awarded therein. Notwithstanding the foregoing, any settlement of such suit, claim or proceeding shall be subject to MPP’s prior written consent, such consent not to be unreasonably withheld. If use of said article, apparatus, part, device or process (including, without limitation, any Product, Service and/or Deliverable) is enjoined, Supplier shall, at Supplier’s own expense and at Supplier’s option, either procure for MPP the right to continue using said article or apparatus, part, process or device, or replace the same with a non-infringing equivalent.

## 8. Limitation of Liability

In no event shall MPP or any MPP affiliates be liable to Supplier for any indirect, incidental special, exemplary, punitive, or consequential damages of any kind (including, but not limited to, loss of revenue or anticipated profits, or lost business) regardless of whether or not MPP or any MPP affiliate has been advised of the possibility of any such damages or such damages could have reasonably been foreseen by MPP or any MPP affiliate.

## 9. Insurance

Supplier shall maintain insurance through insurers with a minimum financial rating of Best A-, VII or S&P A or equivalent: (a) Worker’s Compensation - statutory limits for the state or states in which the work is to be performed; (b) Employer’s Liability - \$1,000,000; (c) Commercial General Liability - \$1,000,000, combined single limit per occurrence including Premises and Operations, Independent Contractors, Contractual Liability and Products and Completed Operations coverage’s; and (d) Automobile Liability (including owned, hired and non-owned vehicles) - \$1,000,000, combined single limit per occurrence. Upon request, Supplier shall provide MPP a certificate of insurance evidencing such coverage. Such certificate will set forth the insurance company, amount of coverage, the policy numbers, and date of expiration, and will include a thirty-day notice of cancellation to MPP clause. MPP may request that MPP be named as an additional insured party under each of these policies, with the exception of the policy covering worker’s compensation liability. Such insurance coverage if requested must be maintained by Supplier at all



times while it is performing work under this Purchase Order. Compliance by Supplier with these insurance requirements does not affect Suppliers indemnification or other liabilities under this Order.

## 10. Compliance with Law and Policies

a. Where the Order requires Supplier to undertake any work on MPP's premises, Supplier will ensure that its employees and subcontractors will comply with MPP's work site conditions, copies of which are available on request. Supplier shall exercise all commercially reasonable efforts to assure that none of Supplier's Personnel pose a threat to the safe working environment at MPP, or a threat to the integrity of the business operations. At MPP's request, Supplier agrees to replace any of Supplier's Personnel who fail to comply with MPP's standard and site specific policies, and will conduct appropriate due diligence on such personnel prior to assigning them to working on MPP's premises, including but not limited to, upon MPP's reasonable request, conducting appropriate background screening.

b. Supplier will comply with and implement applicable policies and procedures in compliance with MPP's Supplier Relationships Policy (35104B), which is available at <http://www.mtpp.com/suppliers/>.

## 11. MPP Supplied Tooling

MPP may at any time reimburse Supplier for the cost of any tooling and fixturing used in the manufacture of the Products hereunder, and upon such reimbursement, MPP will become the owner and be entitled to immediate possession of such tooling and fixturing. MPP will also be the owner of any tooling and fixturing included separately in the price paid by MPP. Supplier will, to the extent feasible, identify such tooling and fixturing as MPP directs and will, when this Order has been completed, dispose of such tooling and fixturing only in accordance with MPP's written instructions. Supplier assumes complete liability for any MPP-owned or MPP-furnished tooling and fixturing, and Supplier agrees to pay for all repair, maintenance and replacement of such tooling and fixturing.

## 12. MPP's Property; Proprietary Information; Confidentiality

a. MPP retains title and ownership of all information, materials and proprietary information furnished to Supplier in connection with execution of this Order, and the same will be: (a) treated as MPP's proprietary information, segregated from Supplier's property, and individually marked and identified as MPP's property; (b) used by Supplier exclusively for the purpose of completing this Order; and (c) returned to MPP at MPP's direction or upon completion, termination, or cancellation of this Order, along with all copies or reproductions, unless otherwise agreed in writing by MPP. Supplier must have a Mutual Confidentiality and Nondisclosure Agreement on file with MPP and must complete a periodic Supplier approval. (Exact schedule for each Supplier is determined by MPP as needed by type of work furnished by Supplier.)

b. Supplier agrees that the terms and existence of this PO, as well as all information and material disclosed by MPP to Supplier, and all information and material that you or Supplier personnel develops under this PO (including, without limitation, Deliverables) constitutes "MPP Confidential Information." Supplier and Supplier personnel shall not disclose MPP Confidential Information to any third party person or entity, except to the extent required by a court or government agency order or rule (provided that you first give MPP immediate written notice of such order or rule and sufficient time to enable MPP to have the opportunity to quash or limit the scope of said order or rule). Supplier may disclose MPP Confidential Information only to those of MPP personnel (only if previously approved by MPP in



writing and only if Supplier and Supplier personnel have previously signed a confidentiality agreement that is consistent with the terms of this Article 12 who possess a legitimate need to know for purposes of fulfilling your obligations to MPP under this PO, and may use MPP Confidential Information only for such purposes. MPP Confidential Information does not include information that is or becomes publicly available without restriction to Supplier or Supplier's Personnel, or any other person through no wrongful act of Supplier or Supplier's Personnel. All MPP Confidential Information is and remains the property of MPP, and upon MPP's written direction, Supplier shall promptly return or destroy (with such destruction certified in writing by you) all MPP Confidential Information, along with all copies and portions thereof, to MPP. No such return or destruction of MPP Confidential Information shall affect the confidentiality obligations of your or Supplier personnel all of which shall continue in effect as provided in this PO. Without waiving any other rights that MPP may have and notwithstanding anything to the contrary herein, MPP may immediately terminate with cause (with no right to cure) this PO upon written notice to you in the event that you, including any of Supplier's personnel, uses or discloses MPP Confidential Information other than as expressly permitted in this Article 12.

c. Notwithstanding anything to the contrary, you shall ensure that nothing that Supplier discloses to MPP constitutes confidential information of Supplier, including Supplier's Personnel, or any third party. In the event that Supplier wishes to disclose, and MPP desires to receive, any such information, the Parties agree that they shall separately execute a non-disclosure agreement prior to any such disclosure.

d. Supplier agrees that MPP Confidential Information shall be subject to the organizational, technical, and physical controls and other safeguards as reasonably required by MPP, including complying with applicable requirements of MPP's partner companies (GE and Seacast).

### **13. End of Life**

In the event Supplier intends to replace or discontinue the manufacture of any Products, Supplier will give MPP at least six (6) months prior written notice and accept additional Orders for such Products until the end of the six-month notice period. Supplier may not discontinue manufacture of any Products until all outstanding Orders for such Products have been filled.

### **14. Gratuities, Bribes and Other Payments**

Supplier warrants that neither it nor its employees, agents or representatives have offered or given any gratuities, gifts, bribes, kickbacks, entertainment or anything else of value to MPP, its employees, agents or representatives to influence anyone for the purpose of securing this Order, or obtaining or retaining any business, or securing any favorable treatment with respect thereto.

### **15. Mandatory Flow Downs; Government Contracts**

Supplier and its subcontractors will comply with all mandatory flow-down clauses, whether pursuant to a U.S. government contract or otherwise, applicable to MPP for Products that are the subject of this Order. If this Order is a subcontract under a government contract, Supplier agrees that all terms and conditions required by law thereto, including, by way of illustration and not limitation, the pertinent provisions of the Federal Acquisition Regulations and the Department of Defense Supplement, are incorporated herein and are deemed to be part hereof. MPP and Supplier hereby incorporate the requirements of 41 C.F.R 60-1.4 (a)(7) 60-250.5 and 60-741.5, if applicable.

## 17. Assignment; Subcontracting

Supplier shall not contract for the procurement of any item covered by this order without the approval of the MPP. Further, Supplier shall not sell, assign, delegate, or otherwise transfer any of your rights or obligations hereunder without the prior written consent of, and any attempt to do so in contravention of the foregoing is hereby deemed null, void and with no effect. Subject to the foregoing, this PO shall be binding upon and inure to the benefit of the Parties, their respective successors and assigns.

## 18. Applicable Law; Disputes, Arbitration

The interpretation of this Order and the Parties' rights and obligations hereto will be construed and governed by the laws enacted by the state of New York, excluding its choice of law rules and excluding the U.N. Convention on Contracts for the International Sale of Goods. The parties agree that in any effort to enforce the terms and obligations hereunder, the complaining party will notify the other party in writing of the alleged dispute, and the parties will then attempt in good faith to resolve the dispute through prompt discussion and meeting between representatives having decision-making authority regarding the dispute. Upon mutual agreement, the parties may engage a neutral mediator to facilitate resolution of the dispute. If the dispute is not resolved by the 30th day after written notice of the dispute was first made, either party may initiate mandatory binding arbitration, subject to the Federal Arbitration Act, 9 U.S.C. §§ 1-16, which will be the sole remedy for any claims seeking damages, whether for breach of contract, tort, or any other legal theory. Any such arbitration will be in place of any action in state or federal court, which rights the parties expressly waive. The arbitration will take place in Butte, Montana, before a single arbitrator affiliated with the American Arbitration Association. Nothing herein, however, precludes MPP from obtaining in any court of competent jurisdiction any injunctive or equitable relief, including temporary restraining orders and preliminary injunctions, against conduct or threatened conduct for which no adequate remedy at law may be available or which may cause MPP irreparable harm. Such injunctive and equitable relief may be sought prior to any mediation that would otherwise be required hereunder.

## 19. Importer of Record

(a) Importer of Record. Supplier agrees to mark each Product and, as appropriate/applicable, Product packaging, labels, or invoices with the country of origin (manufacture) for the Product, in accordance with applicable customs/import laws and regulations. Supplier shall also provide MPP, upon request, acceptable and auditable documentation establishing country of origin for all products provided under this agreement, including without limitation, certifications of origin. Supplier will be responsible for any fines or liabilities resulting from insufficient, improper and negligent invoicing or marking of shipments.

(b) Anti-Dumping. Supplier warrants that all sales made hereunder are or will be made at no less than fair value under the applicable Anti-Dumping law, and Supplier will indemnify, defend and hold Buyer harmless from and against any cost or expenses (including but not limited to and anti-dumping duties which may be imposed) arising out of in connection with any breach of this warranty.

## 20. Compliance with Laws; U.S. Export Controls

In performing work under this Order, Supplier and its subcontractors will comply with all applicable federal, state and local laws, and the rules and regulations of any governmental authority. This includes strict compliance with all applicable export control laws and regulations of the United States or other relevant jurisdictions, including but not limited to the International Traffic in Arms Regulations ("ITAR," 22 CFR Part 120-130) and the Export Administration Regulations ("EAR," 15 CFR Parts 730-744). Buyer reserves the right to cancel any Order without penalty or liability to Buyer in the event Supplier's performance under this Order does not comply with such laws, rules and regulations. Supplier will defend, indemnify and hold Buyer harmless for any non-compliance by Supplier or its subcontractors. For Items subject to ITAR under the US Department of State (defined in ITAR Sections 120.6 and 120.9), the Supplier agrees to maintain a valid and current Directorate of Defense Trade Controls ("DDTC") registration and agrees to provide confirmation of such registration if requested by the Buyer. With respect to such defense articles and/or defense services, Supplier represents and warrants that it has not and will not pay or offer to pay for the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of an international organization of non-U.S. Country any fees, commissions or political contributions as described under Part 130 of the ITAR without prior notice to Buyer. In such event, Supplier shall provide to the Buyer, not later than 20 days after such an event, full disclosure of all information necessary for the Buyer to comply fully with Sections 130.9 and 130.10 of the ITAR.

Supplier agrees that it will not source any items from or otherwise distribute, disclose, release or otherwise transfer any item or technical data provided under this agreement to: (i) any country designated as a "State Sponsor of Terrorism" by the U.S. Department of State, (ii) any entity located in, or owned by an entity located in, a "State Sponsor of Terrorism" country, (iii) the region of Crimea (including Sevastopol) or (iv) North Korea. This clause will apply regardless of the legality of such a transaction under local law.

## 21. Cumulative Remedies

Set-Off Rights. All of MPP's rights and remedies under this Order or at law are cumulative and non-exclusive. Payment to Supplier under this Order is subject to set-off or recoupment for any present or future claims that MPP or its affiliates may have against Supplier or its affiliates.

## 22. Quality Assurance, Inspection & Test

Supplier shall be responsible for the specific quality, performance, productivity provisions, and documentation requirements, if any, set forth in this Agreement. In addition, Supplier shall be responsible for imposing the applicable quality assurance requirements on its subcontractors. MPP and MPP's customer, shall each have the right, at no charge to MPP or MPP's customer, to access the sites where the work under this Agreement is performed, in order to (1) conduct quality audits, (2) perform or witness inspections or tests of the Goods or Services furnished hereunder at Suppliers facility (or elsewhere), (3) assess conformance with MPP's specifications, and (4) assess conformance with Suppliers covenants under this Agreement. In accordance with 14 CFR 145.223 and 14 CFR 21.140, any Supplier that accepts parts, which are regulated by the Federal Aviation Administration (FAA), or those regulated by EASA, DAOS or other regulator, must provide facility access to that regulator for surveillance of these parts.

Supplier certifies that it shall provide and maintain quality control, inspection, and process control systems in accordance with MPP's then current specification for Supplier quality product requirements, as applicable. For orders



listing GEAE as the end user, specifications S-1000, S-1001, S-1002, S-1005, S-1006, S-1007, S-485, and other quality requirements shall apply when specified. Supplier will maintain Objective Evidence of its conformance with this paragraph. Objective Evidence means any statement of fact pertaining to the quality of a product or service based on observations, measurements or tests that can be fully verified. Evidence must be expressed in terms of specific quality requirements or characteristics. These characteristics are identified in drawings, specifications, and other documents that describe the item, process, or procedure.

### **23. Record Retention and Disposition Requirements**

For orders listing GEAE as the end user, Supplier shall maintain quality documents and records according to the applicable Supplier quality specification, (S-1000, S-1001, S-1002, S-1005, S-1006, S-1007, S-485, or other quality requirements as specified), or seven (7) years, whichever is longer.

For orders not listing GEAE as the end user where products or services generate quality records, Supplier shall maintain these records for a minimum of seven (7) years unless otherwise specified.

For all orders, no quality documents or records may be destroyed without MPP's prior written authorization.

### **24. Supplier's Personnel Working at MPP**

Where Supplier's Personnel will be performing work onsite at Montana Precision Products, Supplier is responsible for notifying MPP if the personnel are non-US persons. Supplier is also responsible to verify personnel are not subject to US Government Watch List restrictions.

**END OF DOCUMENT**