

CUSTOMER CONTRACT REQUIREMENTS
India P-8I LRMRS W AIRCRAFT
CUSTOMER CONTRACT 171/DAA/C/08-09LRMRAS W/AIRCRAFT (08)

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

1. Prime Contract Special Provisions The following prime contract special provisions apply to this purchase order

India Integrity Pact Clause .

1. Compliance with Laws:

Seller shall (i) comply with all applicable country laws relating to anti-corruption or antibribery, including, but not limited to, legislation implementing the Organization for Economic Co-operation and Development "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" (the "OECD Convention"), the India Prevention of Corruption Act or other anti-corruption/anti-bribery convention; (ii) comply with the requirements of the Foreign Corrupt Practices Act, as amended, (FCPA) (15 U.S.C. §§78dd-1, *et. seq.*), regardless of whether Seller is within the jurisdiction of the United States; and (iii) neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value received from Buyer to a public official or any person in violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery.

2. India Integrity Pact:

Seller confirms that it has read the Pre-Contract India Integrity Pact, which was executed by Buyer and the Government of India (GOI) substantially in the form provided at <http://mod.nic.in/dpm/Pre-Contract%20Integrity%20Pact.htm> and is familiar with Buyer's obligations therein and Seller agrees that it shall comply with the Integrity Pact therein or the modified version signed by Buyer and the GOI, a copy of which is or has been provided to Seller.

3. Independent Contractor:

Seller is an independent contractor fully and solely responsible for its own actions and is not, and shall not hold itself out as, an employee, agent, partner or joint venture party of or with, or attorney in fact for Buyer. Directors, officers, agents, representatives, consultants, subcontractors, employees and affiliates of Seller (collectively, "Seller's Affiliates") shall not be considered, directors, officers, agents, representatives, consultants, subcontractors, employees or affiliates of Buyer and neither Seller nor Seller's Affiliates may make or sign or purport to make or sign sales orders or contracts or other instruments in the name of Buyer, make any commitment for the account of, assume or create express or implied obligations of any kind on behalf of, or in any respect bind Buyer, or market, sponsor or promote any product or service on behalf of Buyer. Seller shall not have the authority to accept service of legal process for or on behalf of Buyer. Seller shall be solely responsible for the actions of Seller's Affiliates. In no event shall Buyer be held liable or accountable for any obligations incurred by Seller or Seller's Affiliates and Seller shall indemnify and hold Buyer harmless against any such liability or accountability. Seller agrees at all times to comply with all legal, fiscal and commercial obligations, which are required of Seller in its capacity as an independent contractor.

4. Indemnification:

Seller shall indemnify and hold harmless Buyer for the amount of any loss suffered by Buyer and any penalty imposed on Buyer by the GOI as a result on Seller's breach of any provision hereof.

5. Cancellation for Default

Seller's breach of any provision of this clause shall be grounds for cancellation of this contract under the Cancellation for Default and/or

Termination/Cancellation articles of this contract.

ARTICLE 7

QUALITY

- 7.1 The quality of the Aircraft, Spares, and Support Equipment delivered according to this Contract shall correspond to the technical conditions and standards valid for the deliveries of the same stores in accordance with Seller's established Manufacturing and Quality Systems. The SELLER confirms that the stores to be supplied under this Contract shall be new, i.e. not manufactured before 2008. New stores are unused parts and materials which have never been sold, shipped, title transferred or otherwise conveyed or delivered to another operator. The parts and materials used in the stores may have been used for the purposes of inspections and testing activities for the P-8I Program. Such P-8I parts and materials include those utilized in the Seller's System Integration Laboratory (SIL) and other test facilities.

Spares supplied under this Contract are interchangeable with same equipment supplied by the Seller in the past. In the event of part number changes, the Seller shall provide the Buyer with notification of approved part number changes and interchangeability.

ARTICLE 15

WARRANTY

1. The SELLER warrants that the goods supplied under this Contract conform to technical specifications as prescribed in the Statement of Work referenced by this contract.
2. The SELLER warrants for a period of one-thousand (1000) operational hours or two years (24 months) whichever is later from the date of delivery in India to buyer's customer of the P-8I IAV Aircraft, the equipment supplied under this Contract shall be free from defects in workmanship and material. The SELLER warrants for a period of two years (24 months) from the date of acceptance that Spares and Support Equipment supplied under this Contract shall be free from defects in workmanship and material.
3. If within the period of warranty, the goods are reported by the Buyer to have failed to perform as per the specifications, the Seller shall either replace or rectify the same free of charge maximum within 90 days of notification of such defective part received by the Seller, provided that the goods are used and maintained by the Buyer as per instructions contained in the Operating Manual. Warranty of the equipment shall be extended by such duration of downtime. Record of the down time will be maintained by user in logbook. Spares required for warranty repairs shall be provided free of cost by Seller. The freight charges on this account will be borne by the supplier. The Seller also undertakes to diagnose, test, adjust, calibrate and repair/replace the goods/equipment arising due to accidents by neglect or misuse by the operator or damage due to transportation of the goods during the warranty period, or those items not determined to be a Warranty Claim, at the cost mutually agreed to between the Buyer and the Seller.
4. SELLER hereby warrants that necessary service and repair back up during the warranty period of the equipment shall be provided by the SELLER and he will ensure that the downtime is within 20 % of the warranty period. Downtime is defined as the time that a warranted defective part prohibits the

aircraft from operational flight.

5. SELLER shall assist the technical and QA personnel of Buyer as needed during warranty repair and shall also provide the details of complete defects, reasons and remedial actions for defects.
6. If particular equipment/goods fails frequently and/or, the cumulative down time exceeds 20% of the warranty period, the complete equipment shall be replaced free of cost by the SELLER within a stipulated period of 30 days of receipt of the notification from the BUYER duly modified/upgraded through design improvement in all equipment supplied / yet to be supplied and ESP supplied and yet to be supplied. Warranty of the replaced equipment would start from the date of acceptance after JRI by the buyer/date of installation and commissioning.
7. In case the complete delivery of Engineering Support Package is delayed beyond the period stipulated in this Contract, then the SELLER undertakes that the Warranty period for goods and services delayed shall be extended to that extent.
8. Unless otherwise specified in the manufacturer's (OEM) storage requirements, The SELLER will guarantee a shelf life of (4) years under the Indian tropical condition as given below, provided it is stored in original manufacturers packing:-
 - (a) Minimum temperature: -40 degree C.
 - (b) Maximum temperature: +55 degree C.
 - (c) Average Humidity (RH): 65%.
9. The seller shall make available the detailed specifications of all oils and lubricants required to be used in the equipment at the line of initial delivery of equipment to facilitate identification and development of indigenous equivalents to be used after the expiry of the warranty period.

ARTICLE 28

PATENTS AND OTHER INDUSTRIAL PROPERTY RIGHTS

1. The prices stated in the present Contract shall be deemed to include all amounts payable for the use of patents, copyrights, registered trademarks, charges and payments for any other industrial property rights necessary for the operation, maintenance and repair of the Supplies to be performed by the BUYER and Buyer's customer.
2. The BUYER and Buyer's customer shall have the license rights to use Intellectual Property embodied in data delivered to the BUYER and/or Buyer's customer for the purposes as set out in this Article 28, and except for such license rights, the SELLER or other owner of the Intellectual Property shall retain all right, title and interest, including ownership, in such Intellectual Property and data.
3. The SELLER grants to the BUYER and Buyer's customer for use by the BUYER and Buyer's customer, a paid up and royalty free, world-wide, non-exclusive, non-transferable license, without the right to grant sublicenses, in Intellectual Property embodied in data that is delivered under this Contract, for purposes of operation, maintenance, and repair of the Deliverable Supplies under this Contract. The BUYER and Buyer's customer are authorized to make copies of such data (except for data bearing the copyright or restrictive legend of a third party), and all copies of such data will belong to SELLER or other party as identified thereon and will be subject to an obligation of confidentiality under this Contract, whether the data bears a restrictive legend or not, and regardless of the terms of any restrictive legend appearing thereon. The BUYER will preserve all

restrictive legends, and all copyright notices on all delivered data and ensure the inclusion of those restrictive legends and copyright notices on all copies of such data.

4. Rights to disclose the SELLER's Intellectual Property and data, or to use such SELLER's Intellectual Property and data for purposes of modification are not granted by this Article 28. Requests for rights in such Intellectual Property, to enable modification by the BUYER or a third party, or to enable maintenance or repair by a third party, will be considered by the SELLER on a case by case basis once the nature of the modification or maintenance to be performed by other than the BUYER can be defined and the identity and capabilities of the third party are known. Such rights may be granted to the BUYER and Buyer's customer or to their contractors in appropriate circumstances under mutually acceptable terms and conditions which may include the payment of a reasonable royalty fee. Derivative data depicting design details of the modification shall in any event be made available to SELLER upon SELLER's request. Such mutually acceptable terms and conditions may provide title in such derivative data to SELLER, or as a minimum, SELLER shall have an immediate, worldwide, paid-up and royalty free, irrevocable, nonexclusive license, including the right to grant sublicenses, to use or have used such derivative data in the design, manufacture, use, sale, installation and product support of any aircraft.
5. Intellectual Property Indemnity
 - 5.1. The SELLER warrants that the Deliverable Supplies under this Contract do not infringe on any third party's patent or other intellectual property rights (infringements) in the USA or India. In case of any claim, suit or action by a third party alleging that a Deliverable Supply constitutes an infringement of any patent, design or copyright,
 - 1) The BUYER and/or Buyer's customer shall promptly inform the SELLER of such claim, suit or action, and
 - 2) The SELLER, at its own expense, shall have the sole control and the full authority for the defense of the claim, and
 - 3) The BUYER shall cooperate with the SELLER to the extent reasonably necessary in such defense.
 - 5.2. In case the claim introduced by a third party for such an alleged infringement results in a permanent injunction or in a court decision prohibiting the use of part or all of the Deliverable Supplies because a Deliverable Supply is an infringement of a third party right, the SELLER shall:
 - 1) Attempt to procure for the BUYER and/or Buyer's customer the right to continue using the infringing Deliverable Supply during its service life; or
 - 2) Replace or modify the infringing Deliverable Supply in compliance with the terms, conditions and specifications of this Contract, so that the infringement is discontinued.
 - 3) Indemnify the BUYER and/or Buyer's customer against any such damages and all reasonable legal expenses incurred by the BUYER and/or Buyer's customer if damages are awarded to a third party arising out of SELLER's infringement of any patent, design, or copyright.
 - 5.3. The provisions of this Article 28 shall constitute the sole remedy of the BUYER and Buyer's customer and the sole liability of the SELLER in relation to patent, design, or copyright infringement.
 - 5.4. Notwithstanding the above, in case a court has determined that a Deliverable Supply is involved in an infringement of a third party right, the SELLER shall not be responsible for the infringement of a third party's rights in the case where the BUYER or Buyer's customer has, without the SELLER's prior written consent, modified or used a non-infringing Deliverable Supply in conjunction with any other equipment or software which results in infringement of that third party right.
 - 5.5. The actions listed in (28.5.1) or (28.5.2) shall not apply to infringement claims on Government Furnished Material (GFM).
 - 5.6. The BUYER or Buyer's customer shall indemnify and hold harmless the SELLER from and against all claims, suits, actions, liabilities, damages, and cost in case of any actual or alleged infringement arising out of the installation, sale or use of Government Furnished Material (GFM).

6. The Seller, during the period of performance of this Contract, shall comply with the Certificate of Malicious Codes as follows:
 - 6.1. “Malicious Code” is embedded software object code that is not part of the Seller’s System design, nor required by the Seller’s system software specification(s) for the equipment(s) covered under this Contract, and that was created or employed deliberately and purposefully without the Seller’s knowledge, and not through error, omission or oversight, by a person having the unlawful intent to provide a capability to themselves or others to inhibit the desired and designed function of the equipment(s) covered under this Contract, or to cause physical damage to the user or the equipment(s) during the operational exploitation of the equipment(s).
 - 6.2. **CERTIFICATE – MALICIOUS CODE**
 - 6.2.1. Seller certifies that based upon Seller’s present knowledge, the hardware and software being offered as part of the Contract does not contain embedded malicious codes that would activate procedures to:
 - a) Inhibit the desired and the designed function of the equipment(s) covered under this Contract.
 - b) Cause physical damage to the user or his equipment during the operational exploitation of the equipment(s).
 - 6.2.2. In the event of nonconformance or defect attributed to malicious code, Buyer’s sole and exclusive remedy is to require Seller to modify the hardware and/or software to remove the malicious code or to replace the malicious code with code that is not malicious code.

ARTICLE 30

PRODUCT SUPPORT

1. The Seller shall maintain the capability to support their products (i.e. customer support, obsolescence notification, etc.) for 20 years after the delivery of last aircraft, spares and equipment.
2. If Seller’s goods have been identified as a major subsystem, seller shall also comply with the following:
 - 2.1 Throughout the 20 year period, the Seller shall provide at least two years notice to the Buyer for major subsystems closing of their product line so as to enable a Life Time buy of all spares before closure of said production line. In the event of any major system becoming obsolete the Seller will provide recommended alternate solutions. In addition, the Seller will offer available upgrades and modifications on the equipment during this time frame.
 - 2.2 In the event of any obsolescence during the above mentioned period of 20 years product support with respect to any major system, mutual consultation between the Buyer and Seller will be undertaken to arrive at an acceptable solution subject to the Parties’ entering into a separate contract for solution agreed on by the parties.