

**BRAZILIAN NAVAL COMMISSION
TERMS AND CONDITIONS (APRIL2005)**

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1. DEFINITIONS: As used in this Purchase Order, the following terms shall have the meanings given to them below: **1.1** The Term "Buyer" shall mean the GOVERNMENT OF BRAZIL for and on behalf of the Republic of Brazil acting through its BRAZILIAN NAVAL COMMISSION. **1.2** The term "Seller" shall mean the legal entity to whom this Purchase Order is issued. **1.3** The term "P.O." shall mean this Purchase Order. **1.4** The term "Product" shall mean any good(s) or service(s) covered by this P.O. **1.5** The term "complete" or "completion" shall mean finishing a product or service in accordance with the applicable specifications or requirements, provided that any Product that does not conform to applicable specifications or requirements, or that is deficient or contains defects that would be required to be corrected under the warranty hereunder, will not be deemed to have been completed until such Product is corrected, repaired, or replaced so that the Product then conforms to applicable specifications or requirements identified on the face hereof or in any expressly incorporated attachment hereto.

2. ACCEPTANCE: BUYER IS HEREBY ORDERING THE PRODUCT(S) IDENTIFIED ON THE FACE HEREOF, SUBJECT TO EACH OF THESE CONDITIONS: **(A)** Unless it has already been withdrawn by Buyer, this P.O. can be accepted only by either (a) signing and returning the acknowledgement copy prior to the specified delivery date; or (b) delivering the Products ordered by the specified delivery date; and **(B) THIS P.O. MAY BE ACCEPTED ONLY ON THE PRECISE TERMS APPEARING ON THE FACE AND REVERSE SIDE OF THE PAGES OF THIS PURCHASE ORDER AND ANY ATTACHMENT. BUYER DOES NOT AGREE TO ANY PROPOSED ADDITION, ALTERNATION OR DELETION BY SELLER OF THE TERMS HEREIN. THESE TERMS AND CONDITIONS CAN BE VARIED ONLY BY A WRITING SIGNED BY BUYER. ANY FAILURE TO RETURN THE ACKNOWLEDGMENT COPY OF THIS ORDER OR ANY OTHER STATEMENT OR WRITING OF SELLER SHALL NOT ALTER, ADD TO, OR OTHERWISE AFFECT THESE TERMS AND CONDITIONS. ALL CONFLICTING OR ADDITIONAL TERMS ARE OBJECTED TO, AND NOT ASSENTED TO.**

3. PRICES: Unless otherwise specified on the face of the P.O., prices are firm fixed prices under **FCA** trade term according Incoterms 2000 issued by the International Chamber of Commerce. Seller warrants that prices charged for the items are not higher than those charged to any other customer, including the U.S. Government, for items of like grade and quality in similar or lesser quantities, and that they include all United States federal, state, or local taxes, levies and duties except those that the Buyer is not required to pay as a result of being granted exemption from sales taxes by the U.S. Government. The P.O. price is also inclusive of all charges for boxing, crating, storage, dunnage,

bundling, freight, packaging, insurance, handling and all other charges, whether similar or dissimilar, unless otherwise indicated on the face of this P.O.

4. INVOICE: Invoices issued by Seller must conform strictly to this P.O., and any amendment hereto agreed to and signed by the Buyer with regard to Order Numbers, Part Numbers, Description and Condition of Material, Unit, prices, Quantities, etc. No deviations whatsoever in the invoice, as compared with the entries shown on this P.O. and amendment hereto agreed to and signed by the Buyer, shall be accepted by the Buyer unless so approved and processed by the Buyer.

5. PAYMENT: Buyer shall make payments to Seller within thirty (30) days after receipt by Buyer at its address set forth on the face of this P.O., of Seller's properly prepared and certified invoices, and other documentation required by this Article 5. If the face of this P.O. provides for a hold back of a portion of the purchase price, Buyer shall make payment as provided by this Article 5 against Seller's invoices and other documentation, reduced by the amount of the specified hold back. The amount of the specified hold back shall be payable 30 days after Buyer's inspection of the products after their arrival in Brazil as provided in Article 7. Invoices, only one of which shall be identified as 'Original' shall be mailed in triplicate immediately after each shipment to the Buyer's address indicated on the face of this P.O. The certification on the invoices shall be that the Products conform to all requirements set forth in this P.O. and to applicable specifications and requirements. All checks will be issued in the Seller's name and mailed to the address specified in the Seller's block on the P.O. unless proper authority for deviation is supplied to Buyer. Payment shall be made in currency agreed by both parties. For credit reference contact the American Security Bank of Washington, D.C. or Banco do Brasil, New York, N.Y. Delays in receiving invoices, or the occurrence of errors or omissions on invoices, or lack of supporting documentation required by the P.O., will be cause for Buyer withholding payment, without loss of discount privileges. No charges will be honored unless specified on the face of this P.O. Invoices must be accompanied by transportation receipt, all necessary shipping documents, packing lists, a copy of an inland bill of lading signed by the carrier, or other evidence of shipment satisfactory to Buyer. Invoices must also be accompanied by any **EXPORT LICENSES** required for the export of the Products from the United States from Brazil or evidence satisfactory to the Buyer that no validated export license is required.

6. PACKING AND SHIPMENT: All Products shall be packaged and packed in accordance with common carrier requirements to **(A)** ensure safe arrival at their destination, and **(B)** secure the lowest transportation cost. Buyer's P.O. and item numbers, and symbols, must be plainly marked on all invoices, packages, bills of

lading and shipping orders. Packing lists in duplicate must accompany items. Bills of lading or shipping receipts shall be promptly sent to Buyer after the Products are shipped. Buyer's count or weight shall be final and conclusive on shipments. Products must be routed in accordance with Buyer's orders. Products related to more than one P.O. or more than one contract shall not be shipped in the same container, unless the seller has obtained the Buyer's written, signed consent, which may be withheld for any reason. All documents connected with the order, such as invoices, packing lists and any correspondence, must show the order reference number. Such reference must also be shown on bills of lading and airway bills, whenever feasible. Shipments of Hazardous Materials shall be made in compliance with the current issue of the Code of Federal Regulations, Title 49, parts 106 through 180. For all Hazardous/Restricted shipments, Seller must attach its Hazardous-Cargo Certificate.

7. QUALITY ASSURANCE, DELIVERY, MATERIAL ADVERSE CHANGES, INSPECTION, AND ACCEPTANCE. 7.1. Seller shall perform quality control, factory testing and other internal tests to verify that all Products, parts, and spares conform with the criteria set forth in the applicable specifications. No approval or comments by Buyer of or in respect to Seller's work or the Products shall affect or diminish the full and absolute responsibility of the Seller to comply with the requirements of this P.O.

7.2 Time is of the essence with respect to delivery of any Products (goods or services) purchased under the P.O. and any other performance required of Seller. Delivery shall be made in strict accordance with the delivery schedule set forth on the face of this P.O. If seller fails to meet such schedule and Buyer elects to call for expedited shipments, Seller shall pay any additional costs associated with such shipments. For products shipped in advance of the delivery date, Buyer reserves, without loss of discount privileges, the right to pay invoices covering those Products on the date specified for delivery. If Seller encounters or anticipates difficulty in meeting the delivery schedule, Seller shall immediately notify Buyer in writing, giving all pertinent details (including stating the cause(s) and the Seller's efforts to eliminate or diminish the effect of those causes), provided, however, that such data shall be informational only and shall not be construed as a waiver by Buyer of any delivery schedule or date or of any rights or remedies provided at law, or in equity, or under this P.O. If Seller encounters or anticipates a problem in performance of this P.O. that would prevent it from delivering a Product that conforms with the applicable specifications and other requirements herein, or if Seller anticipates making or actually makes a filing under any bankruptcy or insolvency law, or anticipates becoming or becomes insolvent or would have to liquidate assets, or anticipates or experiences a material adverse change or

other event that adversely affects its ability to perform its obligations hereunder, then Seller shall immediately notify Buyer in writing, giving all pertinent details. Failure to comply strictly with this requirement, in the discretion of the Buyer, may be deemed sufficient cause to deny any extension of delivery date required by Seller arising out of such difficulty. Such failure shall also preclude the Seller from asserting any and all claims for damages for delay arising there from. Compliance with the provisions of this Article 7.2 shall not constitute any acknowledgment or agreement by Buyer that it is responsible for such delay, nor relieve Seller of the obligation to use all reasonable efforts to reduce the extent and effect of such delay on its performance of this P.O.

7.3 Products shall not be supplied in excess of the quantities specified herein. The Seller shall bear the risk of loss for the Products purchased under this P.O. until they have been delivered to the delivery point in Brazil designated on the face of this P.O. and tendered by acceptance to Buyer. After delivery to and acceptance by the Buyer, Buyer shall be responsible for said Products. It is understood and agreed that Buyer will inspect the Products upon their arrival at destination in Brazil. At this inspection in Brazil the Buyer shall have the right to reject any Products that are defective in material or workmanship or otherwise not in conformity with the requirements of the P.O. The ultimate decision as to whether the goods are in conformity with this P.O. shall be the decision of the Buyer alone. In the event of such rejection, the Buyer shall have the right to require the Seller to replace or repair, at the Seller's own risk and expense, the rejected items or lots in order that the Products furnished will be in strict conformity with applicable specifications and requirements. In the event that the Buyer rejects certain Products in accordance with this provisions but does not require that such Products be replaced, the payments made or to be made shall be equitably adjusted accordingly. The Seller shall be responsible for and shall bear all risks and expenses as to rejected Products after notice of rejection, which Products shall be returned promptly by Buyer to Seller. Final inspection and acceptance shall not be conclusive in respect of latent defects or fraud or otherwise restrict the Buyer's rights under any guaranty or any warranty made herein by Seller.

8. WARRANTY: 8.1 Seller warrants for a period of one year from date of delivery at the delivery point under this P.O. that all Products, including all parts and spare parts and computer hardware, delivered under this P.O. shall be new or unused, as not refurbished or reconditioned, and that at the time of delivery the Products shall not be of such age or so deteriorated as to impair their usefulness or safety, shall be free from defects in material or workmanship, shall comply with the terms of this P.O., and shall conform strictly to applicable specifications and requirements. If Seller is responsible

for designing the Product(s) to meet specified performance and safety requirements of Buyer, Seller warrants for such period that all such items shall be merchantable, fit and sufficient for the purposes intended by Buyer. Buyer's approval of designs furnished by Seller shall not relieve Seller of its obligations under this warranty. In the event any such defect or other failure to comply with the terms of this warranty occurs, and provided Buyer notifies Seller in writing no later than 30 days after discovery of the defect, Seller's responsibility for Product defects shall include, without limitation, (i) to replace the defective product (if such replacement corrects the defect), or (ii) to repair or otherwise correct such defect or failure, and to verify the success of such replacement or correction by through tests of such products which Buyer, at it's option, may witness, all at Seller's cost (including transportation, parts, and labor). Seller shall choose whether to replace or to repair or correct defective Products within 30 days after Buyer notifies Seller of such defects.

8.2 Seller warrants that for a period of one year from date of delivery under this P.O. that all computer software Products delivered under this P.O. will be free from software or firmware deficiencies which prevent the Products from performing in accordance with this P.O. and applicable specifications. If Seller is responsible for designing the product(s) to meet specified performance and safety requirements of Buyer, Seller warrants for such period that all such items shall be fit and sufficient for the purposes intended by Buyer. Buyer's approval of designs furnished by Seller shall not relieve Seller of its obligations under this warranty, which failure significantly affects use of the Product for the purpose for which it is intended, and provided Seller is notified in writing no latter than 30 days after the Buyer discovers the defect, Seller's responsibilities shall include, without limitation, to correct or replace (at Seller's option) said software or firmware Product and to verify the success of such correction or replacement in thorough tests of such software or firmware that, at its option, Buyer may witness, all at Seller's own cost (including transportation, parts, and labor). Seller shall choose whether to replace or to repair or correct defective software or firmware Products within 30 days after Buyer notifies Seller of such defects.

8.3 Seller further warrants that for a period of one year from the date of completion of all services covered by this P.O., all services will conform with all written proposals, descriptions, and applicable specifications and shall be rendered in a good and workmanlike manner by skilled personnel and in accordance with applicable specifications or other requirements set forth herein (including services required to repair or replace defective hardware, firmware, or software). For the purpose of calculating warranty periods for services, delivery shall occur upon the completion of such service, provided, completion of such services conforms with all

written proposals, descriptions, applicable specifications or other requirements set forth herein (including services required to repair or replace defective hardware, firmware, or software).

8.4 This warranty does not extend to any Product that was subject to misuse, neglect or accident by other than Seller after its delivery to Buyer, nor does it extend to any Product that was modified or altered by other than Seller after it's delivery to Buyer, if such repair, modification or alteration adversely affects the portion of the Product involved in the claim under this warranty.

8.5 Seller's refusal or failure to perform as required under this warranty shall constitute a reasonable and justified excuse for Buyer to withhold from the unpaid balance of the purchase price, or to recover from the Seller, a sum equal to what it costs the Buyer to replace or repair any defective Product that Seller has refused or failed to replace or correct as required in accordance with this warranty.

8.6 Seller warrants that all Products (articles, materials and work) ordered by Buyer that correspond to or are identical with products (articles, materials and work) sold by Seller to the united States Government or agents thereof shall be manufactured and tested for Buyer pursuant to those specifications and standards required by the U.S. government, unless otherwise specified herein.

8.7 The warranties, obligations, and liabilities of Seller shall survive delivery, and shall not be deemed waived either by reason of Buyer's acceptance of said Products (articles, materials, work, or services), or by payment for them.

8.8 The rights and remedies of Buyer provided in this P.O. shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity.

9. CONFIDENTIALITY AND RIGHTS: **9.1** The information contained in reports, drawings, documents or other records (hereinafter referred to as "Information") that Buyer provides to Seller relative to this P.O., to the extent that the Information is not in the public domain, shall not be disclosed by Seller to others, except to subcontractors as necessary for completion of this P.O., in which event the subcontractor shall have the same obligation of nondisclosure. Upon completion, termination, or cancellation of this P.O., Seller (and any subcontractors) shall, if requested by Buyer, returns all copies of the Information to Buyer no later than thirty (30) days after the effective date of such completion, termination, or cancellation. Any Information provided by Buyer to Seller and retained by the Seller shall remain subject to the foregoing restrictions on use, reproduction and disclosure.

9.2 Upon termination, either for cause, convenience, completion, or cancellation of this P.O., Buyer may use on a non-exclusive basis, all Products covered by this P.O. without further compensation to Seller.

9.3 Except as required by law or regulation, Seller shall not, without prior written consent of Buyer, in any manner advertise, publish or publicly announce that Seller has supplied or contracted to supply to Buyer the Products or services to be delivered under this P.O.

10. NO COMMISSIONS: Seller represents and warrants that Seller is not paying or making available to any person, firm, corporation or other entity, directly or indirectly, any rebate, bonus, commission, improvement in terms and conditions of payment of commission, percentage, brokerage, contingent fee, or other advantage (whether applicable to the purchases covered by this P.O. or otherwise) which in whole or in part is based upon or attributable to the purchases covered by this P.O. Seller's breach of this Section **10** shall entitle the Buyer to terminate Seller's performance under this P.O. for default, or at its discretion, to deduct from the price of this P.O. the amount of such rebate, bonus, improvement in terms and conditions of payment, commission, percentage, brokerage, contingent fees or other advantage.

11. PATENTS, COPYRIGHTS, MASK WORKS AND TRADE SECRETS: **11.1** Seller warrants that the products (articles, materials, work) purchased hereunder do not infringe any letters patent granted by the United States Government or the Government of Brazil, any United States or Brazilian copyright, trade secret, or other property right with respect to the use of the Products delivered hereunder; Seller agrees to hold harmless and protect the Buyer, and/or the users to whom the products have been transferred against any liability, including without limitation, costs, expenses and attorney's fees for or by reason of any actual or alleged infringement of any patent, copyright, mask work, trade secret, or any other property right arising out of the design, manufacture, use, sale, delivery or disposal of Products furnished under this P.O. and not attributable to Seller's compliance with any detail design and stated requirement by the Buyer for a specific structure. Seller shall report to Buyer, and Buyer shall report to Seller, promptly and in reasonable written detail, each notice or claim of patent, copyright, mask work, trade secret, or other property right infringement relating to the performance of this P.O. of which Seller has knowledge. Seller shall pay any judgments entered, or any settlements made by Buyer with Seller's prior written approval, in respect to such suits or proceedings.

11.2 Unless otherwise specified in this P.O., all technical data and/or computer software and firmware, and computer software and firmware documentation that

are required to be furnished by Seller under this P.O. shall be furnished with "Unlimited Rights."

11.3 Should the use of any Product by Buyer be finally enjoined, or in Seller's opinion be likely to become enjoined, or in the event Seller desires to minimize its liabilities hereunder, Seller will, at its option, either (i) substitute a fully equivalent, non-infringing product, (ii) modify such Product so that it no longer infringes by remains fully equivalent, (iii) obtain for Buyer, at the expense of Seller or its nominee, the right to continue use of the Product, or (iv) refund to Buyer the amounts paid to Seller hereunder for said infringing Product and renounce all claims to any payment under this P.O. from the Buyer (in the event that, after examining the possibilities of effecting the remedies in (i), (ii) and (iii), Seller is unable to provide any of said remedies upon terms that Seller deems reasonable).

11.4 Seller represents, if the Products include work furnished by subcontractors, that each such subcontractor's patent representation and indemnification procedure provides that it inures to the benefit of Buyer, may be enforced by Buyer, and shall be substantially in the form and substance of this Article **11**. The foregoing states the entire liability of Seller with respect to infringement of patents, copyrights, mask works, trade secrets, and other property rights by the products or any part thereof or by operation thereof.

12. CHANGES: **12.1** Buyer shall have the right, upon written notice to Seller signed by Buyer and specifying with particularity the change requested (a "Change Request"), to require changes in the quantity, quality, or terms of delivery (including delivery date) and shipment of the Products sold by Seller, provided that such change is within the general scope of this P.O. Change Requests that the Seller believes may require a change in the delivery schedule indicated on the face of this P.O. and/or change in the P.O. price, and/or change in the payment schedule, or such other provisions of this P.O. as may be so affected due to additional or reduced work, shall be dealt with as follows in paragraphs **12.2** through **12.5**.

12.2 The Seller shall, promptly, but in no event later than thirty (30) days from receipt of a Change Request, submit to Buyer in writing: (a) Seller's proposed revised (increased or decreased) P.O. price (which shall be supported by Seller's estimated cost, (b) Seller's proposed revised delivery schedule and payment schedule, and (c) Seller's proposed revision to the P.O.; (a), (b) and (c) being referred to herein as the Seller's Responsive Proposed Revisions". Within thirty (30) days or receipt of the Seller's Responsive Proposed Revisions, Buyer may either (i) accept them by providing Seller with written notice of Buyer's acceptance as provided for and subject to sections **12.3** and **12.4** below; (ii) reject them, in which case the Seller shall

continue performance under the P.O. as though no Change Request had been made; or (iii) commence negotiations with Seller with a view toward arriving at an equitable resolution of the Seller's Responsive Proposed Revisions. Seller may initiate requested changes, in which case the Seller shall submit to Buyer in writing Seller's proposed revisions ("Seller Initiated Proposed Revisions") together with Seller's requested change(s), and the procedure for acceptance, rejection, or negotiation set forth above in this Article for Seller's Responsive Proposed Revisions shall be followed for Seller Initiated Proposed Revisions.

12.3 Within thirty (30) days of receipt of the Proposed Revisions (which hereinafter refers collectively to Seller's Responsive Proposed Revisions and Seller Initiated Proposed Revisions), Buyer may either (i) accept them by providing the Seller with written notice of Buyer's acceptance as provided for in and subject to paragraph **12.4** below; (ii) reject them, in which case the Seller shall continue work under the P.O. as though no Change Request had been made; or (iii) commence negotiations with Seller with a view toward arriving at an equitable resolution of the Revisions.

12.4 Prior to implementation by the Seller, any Proposed Revisions associated with a Change Request shall be agreed upon by the Buyer and the Seller and shall be incorporated into this P.O. by an amendment executed by both parties (a "Change"). Unless and until a Change is agreed to and issued, Seller shall proceed with all tasks to be performed under this P.O. (including delivery of Products) as though no Change Request had been proposed.

12.5 Under no circumstances shall oral statements and understandings be valid or binding upon either Buyer or Seller, and in no event shall the doctrine known as "constructive changes" be applicable to the interpretation and performance of this P.O., nor shall it be applicable or permitted to be resorted to in any adjudication of any dispute arising hereunder. No waiver by Buyer or any breach of this P.O. or the granting of an extension of time for performance hereunder shall be deemed to be a waiver of any other or subsequent breach.

13. DEFAULT: 13.1 In the event of a material breach by either party of its obligations under this P.O., or, in the case of the Seller, non-delivery of conforming products (goods or services) in accordance herewith, the aggrieved party may, but is not required to, terminate this P.O. for default in whole or in part, and seek the remedies as set forth below.

13.2 Buyer may terminate this P.O. in whole or in part, for Seller's default by written notice to Seller in accordance with Article **16** below. If Buyer terminates this P.O. in part, Seller shall continue performance of this P.O. to the extent not terminated.

13.3 In the event of termination for Seller's default, Buyer shall have all remedies provided in this P.O. and all rights and remedies available under applicable law. The rights and remedies of Buyer under this P.O. are cumulative with, and in addition to, all other rights and remedies available under applicable law.

13.4 If performance of this P.O. is terminated for Seller's default, Buyer, in addition to any other rights provided in this Article, may require Seller to transfer title and delivery to Buyer, in the manner and to the extent directed by Buyer: **(A)** Any Completed products; and/or **(B)** such partially completed Products, supplies, materials, and parts, information, and P.O. rights as the Seller has specifically produced or specifically acquired for the performance of such part of this P.O. so terminated (hereinafter called the "Component Materials"). Seller shall protect and preserve all such property including, without limitation, technical data and technical information, in possession of Seller in which Buyer has an interest.

13.5 Payment for completed Products delivered to Buyer pursuant to the preceding paragraph **13.4**, shall be at that portion of the P.O. price specified for that Product in the P.O. Component Materials delivered to and accepted by the Buyer pursuant to paragraph **13.4**, above, and for the protection and preservation of property shall be in an amount agreed upon between the Buyer and the Seller, which amount shall not exceed Seller's costs and provided that no profit shall be paid thereon. All moneys paid by Buyer to Seller prior to termination for Seller's default, in excess of that due to Seller pursuant to this Article, shall promptly be refunded to Buyer.

13.6 In the event Seller fails to deliver any Product(s) in accordance with the delivery schedule set forth in this P.O. or if Seller delivers nonconforming Product(s) in accordance with such delivery schedule, and such failure is not excused pursuant to Article 18, Buyer shall be entitled to collect damages from Seller for the delay in delivery at the daily rate of 0.5% of the price of the Products specified in this P.O. (and in no event less than \$100 per day) for each day until conforming Products are delivered to Buyer, provided that such liquidated damages shall not exceed 20 % of the price of such Products specified in this P.O. Nothing in this Article 13.6 shall be deemed to restrict Buyer's right to terminate this P.O., in whole or in part, in accordance with the terms hereof. [In the event Seller fails to deliver any product(s) in accordance with the delivery schedule set forth in this P.O. or any amendments to it, and such failure is not excused by provisions contained elsewhere in this P.O., in lieu of Buyer's right to terminate the P.O., for a period of no more than one hundred and eighty (180) days, the Buyer may elect at its option, to collect liquidated damages from Seller at the daily rate of 0.5% of the value of the Products covered in this P.O. (and in no event less than \$100 per day) for each day or part of

a day for each delayed Product covered by this P.O., or for each day or part of a day that such Products remain non-conforming subsequent to the date that Buyer notifies Seller of such non-conformance(s).]

13.6 All costs to be charged to Buyer under this Article may be audited by an independent audit firm of Buyer's choice, reasonably acceptable to Seller.

14. AMENDMENTS: This P.O. shall be changed only by means of written Amendment to this P.O., dated and signed by the Seller and the Buyer.

15. ASSIGNMENT AND SUBCONTRACTING: Seller shall not assign this P.O. or any portion hereof or any interest herein, nor shall Seller subcontract for completed or substantially completed Products (goods or services) purchased hereunder without prior written and signed consent of Buyer, which Buyer may withhold for any reason. Seller shall to the maximum practical extent, select subcontractors (including suppliers) on a competitive basis.

16. NOTICES: All notices required or permitted to be given hereunder shall be in writing and shall be deemed to be properly given if delivered personally or sent by United States certified or registered mail addressed to Seller or Buyer, as the case may be, to the addresses set forth on the face of this P.O., with postage thereon fully prepaid. The effective time of notice shall be at the time of mailing.

16.1 Seller shall notify Buyer at least three (3) months in advance of any planned stop of production of major equipment items common to the hardware Products to be supplied hereunder, or the planned restart of production of such items to allow the Buyer the option of ordering additional spare parts at the time such production is in progress.

17. DISPUTES/ARBITRATION: **17.1** Any controversy or claim arising out or relating to this P.O. shall be determined by arbitration in accordance with the International Arbitration Rules of the American Arbitration Association. The place of arbitration shall be Washington, D.C., the number of arbitrators shall be three and the award of the arbitrators shall be final and binding on the parties. Each party shall select one arbitrator within 30 days after the commencement of the arbitration and the two arbitrators shall select a third. If either party fails to select an arbitrator within such time period, the arbitrator selected by the other party shall be the sole arbitrator. If the two arbitrators do not agree on the selection of a third arbitrator within 45 days after the commencement of the arbitration, the American Arbitration Association shall select the third arbitrator. The arbitration shall be conducted in the English language. The non-prevailing party shall bear the costs of the arbitration, including the fees of the arbitrators and

the reasonable costs and expenses of the prevailing party, including attorneys' fees and disbursements. Judgment upon the arbitration award may be entered by any court of competent jurisdiction. Notwithstanding the foregoing, nothing in this Article 17 shall be construed to prevent Buyer from seeking injunctive relief or other interim measures during the pendency of the arbitration.

17.2 Unless otherwise directed by Buyer, pending the final disposition of any dispute hereunder, Seller agrees to proceed diligently with the performance of this P.O., including delivery of the Products in accordance with Buyer's instructions, or any change thereto in accordance with the decision and instructions of the Buyer, provided that Buyer shall pay Seller the amount due in accordance with this P.O., subject to adjustment based on the final disposition of the dispute.

18. EXCUSABLE DELAYS: **18.1** Neither Buyer nor Seller shall be liable for damages or be deemed to be in default by reason of any failure or delay in performing any or its obligations under this P.O. to the extent that such failure or delay is directly due to any of the following circumstances and such circumstances are beyond the affected party's reasonable control and could not be avoided by exercising due care: (A) any war, riot, insurrection or other civil commotion, (B) any strike, lockout or other labor dispute, (C) any fire, flood or other act of God, (D) any labor, material, transportation or utility shortage or curtailment, or (E) any governmental order, decree or regulation, or (F) any other similar circumstances. The affected party must (i) promptly notify the other party of the circumstances and their effect, (ii) consult with the other party concerning suitable interim arrangements and exercise due diligence to eliminate or remedy the cause of failure or delay, and (iii) continue performance as soon as reasonably possible after such cause of failure or delay is removed. Under no circumstances is either Buyer or Seller excused from its obligations due to adverse economic conditions or general financial or operational constraints. If any such failure or delay lasts for more than 90 days, the other party may terminate this P.O. by giving notice to the party so excused. In the event of such termination, the affected party shall not be liable for damages to the extent attributable to such excused failure or delay. Nothing in this Article 18.1 will restrict or impair the right of either Buyer or Seller to terminate this P.O. on other grounds or to exercise any other right or remedy based on any breach or other circumstances that are not excused by this Article 18.1.

18.2 With respect to delays in performance of Seller's subcontractors or suppliers, such delays shall be deemed excusable delays with respect to Seller only if such subcontractor's performance is prevented by a cause set forth in this Article 19, or other causes beyond the reasonable control of, and that arise without fault or negligence on the part of, such subcontractor or

supplier, and when Seller could not have obtained the supplies or services from other sources in sufficient time to prevent interruption of its performance of this P.O.

19 GOVERNING LAW: The Buyer and Seller agree that the rights and obligations under this P.O. shall not be governed by the U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. This P.O. shall be governed, construed, interpreted and applied in accordance with the laws of the District of Columbia without reference to its choice of law rules.

20. DISTRICT OF COLUMBIA GOVERNMENT RELATIONS: Seller shall ensure compliance with U.S. and foreign laws, regulations and governmental requirements applicable in the context of the sale of the Products to Buyer ' their delivery to Buyer in Brazil and the other transactions contemplated by this P.O., including without limitation all special identification marking requirements of the U.S. Coast Guard and the U.S Department of Commerce. Seller shall obtain all **EXPORT LICENSES** required for the export of the Products fro the United States to Brazil. If no validated export license is required, Seller shall provide Buyer with evidence thereof in form satisfactory to the Buyer.

21. MISCELLANEOUS: 21.1 The headings and titles to the articles, sections, and paragraphs of this P.O. are inserted for convenience only and shall not be deemed a part hereof or affect the construction or interpretation of any provision hereof. No cancellation, modification, amendment, deletion, addition or other change in this P.O. or any provision hereof, or waiver of any right or remedy herein provided, shall be effective for any purpose unless specifically set forth in a writing signed by the party to be bound thereby. No waiver of any right or remedy in respect of any occurrence or event on one occasion shall be deemed a waiver of such right or remedy in respect of such occurrence or event on any other occasion. This P.O. supersedes all other agreements, oral or written, heretofore made with respect to the subject hereof and the transactions contemplated hereby, and contains the entire agreement of the parties.

21.2 Any provision hereof prohibited by, or that is unlawful or unenforceable under, any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting any other provision of this P.O.; provided, however, that if the provisions of such applicable law may be waived, they are hereby waived, to the end that this P.O. be deemed to be a valid and binding agreement enforceable in accordance with its terms.

21.3 The provisions of this P.O. shall be binding upon and inure to the benefit of Buyer and Seller and their respective successors and assigns, but this provision

shall not be deemed to expand or otherwise affect the limitation on assignment and transfers set forth above, and no party is intended to or shall have any right or interest under this P.O., except as provided above.