

# **FARSOUND AVIATION LIMITED**

**and subsidiary companies**

## **TERMS AND CONDITIONS OF SALE**

The customer's attention is drawn in particular to the provisions of clauses 4, 6.3, 7.3 - 7.9 (inclusive), 8, 9, 10.3, 11, 12.2, 12.5, 13, 14 and 16.

### **1. INTERPRETATION**

#### **1.1 Definitions:**

<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
<b>Carrier</b>	means the entity transporting the Goods.
<b>Completion of Delivery</b>	has the meaning set out in clause 7.3.
<b>Conditions</b>	the terms and conditions set out in this document as amended from time to time in accordance with clause 18.3.
<b>Contract</b>	the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
<b>Customer</b>	the person or firm who purchases the Goods from the Supplier.
<b>Defective Good(s)</b>	has the meaning set out in clause 9.1.
<b>Delivery Date</b>	the date specified in the Order Acknowledgement, or, if none is specified, within the delivery time period specified or agreed by the Supplier in writing in relation to the Goods ( <b>Delivery Lead Time</b> ).
<b>Delivery Lead Time</b>	see definition of Delivery Date.
<b>Delivery Location</b>	the address for delivery of the Goods as set out in the Order (which, for the avoidance of doubt, will be the Supplier Premises specified on the Order if the Carrier is organised by the Customer).

<b>Dispute</b>	means a dispute or claim that arises out of or in connection with this Contract, including in relation to its existence, performance, validity, termination or enforceability.
<b>EWS</b>	means England, Wales and Scotland.
<b>Force Majeure Event</b>	<p>means an event or circumstances outside of a party's reasonable control, including:</p> <ul style="list-style-type: none"> <li>(a) acts of God, flood, drought, earthquake or other natural disaster;</li> <li>(b) epidemic or pandemic;</li> <li>(c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;</li> <li>(d) nuclear, chemical or biological contamination or sonic boom;</li> <li>(e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;</li> <li>(f) collapse of buildings, fire, explosion or accident;</li> <li>(g) any labour or trade dispute, strikes, industrial action or lockouts;</li> <li>(h) non-performance by supplier's or subcontractors; or</li> <li>(i) interruption or failure of a utility service.</li> </ul>
<b>Goods</b>	the goods (or any part of them) set out in the Order.
<b>Goods Information</b>	means the description of the Goods set out on the Order.

<b>Losses</b>	means all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses).
<b>Order</b>	the Customer's order for the Goods, as set out in the Customer's purchase order form, the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.
<b>Quotation</b>	means the Supplier's quotation to supply the Goods to the Customer, as set out on the Supplier's quotation document.
<b>Supplier</b>	Farsound Aviation Limited (registered in England and Wales with company number 1989923).
<b>Supplier Premises</b>	means the Supplier's premises from which the Goods were initially dispatched from.
<b>UNCITRAL Rules</b>	means the United Nations Commission on International Trade Law Arbitration Rules.
<b>Warranty</b>	has the meaning stated in Schedule 1.
<b>Warranty Period</b>	has the meaning stated in Schedule 1.

## 1.2 Interpretation:

- 1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its personal representatives, successors and permitted assigns.
- 1.2.3 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- 1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and

shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.5 A reference to **writing** or **written** includes emails.

## 2. **BASIS OF CONTRACT**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 A Quotation for the Goods given by the Supplier shall not constitute an offer. A Quotation shall only be valid for a period of **30 Business Days** from its date of issue.
- 2.3 If the Customer does not wish to order a Quotation in full, the Customer shall not submit the Order for the goods described on the relevant Quotation and instead shall promptly inform the Supplier so that the Supplier can revise the Quotation. The Customer shall only submit an Order if it wishes to order the Quotation in full.
- 2.4 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.5 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order (**Order Acknowledgement**), at which point the Contract shall come into existence.
- 2.6 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.7 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.8 All parts that are sold, shall only be used on a Civil application.

## 3. **EXPORT CONTROL AND SANCTIONS.**

As required by the laws of the United States and other countries, Customer represents and warrants that Customer:

- 3.1.1 understands that the items supplied may be subject to export controls and/or sanctions under the UK Export Control Act 2002, Export Control

Order 2008 and/or the Sanctions and Anti Money Laundering Act 2018. In addition, certain items may be subject to export controls and/or sanctions under the U.S. Department of Commerce's Export Administration Regulations ("EAR");

- 3.1.2 is not located in a prohibited destination country under the EAR or U.S. sanctions regulations;
- 3.1.3 will not export, re-export, or transfer the items to any prohibited destination or persons or entities on the U.S. Bureau of Industry and Security Denied Parties List or Entity List, or the U.S. Office of Foreign Assets Control list of Specially Designated Nationals and Blocked Persons, or any similar lists maintained by other countries, without the necessary export license(s) or authorization(s);
- 3.1.4 will not use or transfer the items for use in connection with any nuclear, chemical or biological weapons, missile technology, or military end-uses where prohibited by an applicable arms embargo, unless authorized by the relevant government agency by regulation or specific license;

#### 4. **CONFLICT**

- 4.1 Subject to clause 4.2, if there is any conflict or ambiguity between the documents listed below, a term contained in a document higher on the list shall have priority over one contained in a document lower on the list:
  - 4.1.1 a long term supply agreement or other formal written contract entered into between the parties, which applies to the supply of the Goods;
  - 4.1.2 the Order; and
  - 4.1.3 these Conditions.
- 4.2 In the event of a conflict between the Order and these Conditions, any term on the Order that the Customer seeks to impose or incorporate shall not have priority over clause 2.1.

#### 5. **GOODS**

- 5.1 The Goods are described in the Goods Information.
- 5.2 The Supplier reserves the right to amend the Goods if required by any applicable statutory or regulatory requirement, but for the avoidance of doubt, the Supplier shall not be responsible for checking the Customer's statutory or regulatory requirements

and/or ensuring such requirements are met. If the Goods specification is amended under this clause, the Supplier shall inform the Customer in writing in any such event.

## 6. **CANCELLING OR AMENDING AN ORDER**

6.1 The Customer may request to cancel the Order, if the Customer notifies the Supplier as set out in clause 6.2.

6.2 To cancel the Order, the Customer must inform the Supplier by emailing the Supplier at [sales@farsound.com](mailto:sales@farsound.com) (**Cancellation Request**). The Customer must include details about the relevant Order it wishes to cancel in the Cancellation Request so that the Supplier can identify it. The Supplier will confirm in writing if it accepts the Cancellation Request.

6.3 If the Supplier accepts the Cancellation Request, the Customer shall indemnify the Supplier against all Losses suffered or incurred by the Supplier in connection with the cancellation of such Order. The Customer acknowledges and accepts that if an order for the Goods has already been placed with the manufacturer of such Goods, this may be the full price of the relevant Goods.

6.4 If the Customer wishes to amend the Order the Customer shall inform the Supplier in writing what changes it would like to make to the relevant Order (**Requested Change**). The Supplier shall inform the Customer in writing about whether it can accommodate the Requested Change, any changes to the price of the Goods, the timing of supply and any other consequences of the Requested Change, and ask the Customer whether it wishes to go ahead with the Requested Change (**Change Consequences**). If the Customer agrees to the Change Consequences:

6.4.1 the Order shall be varied accordingly; and

6.4.2 the Supplier may request immediate payment of any price increases of the Requested Change to the bank account nominated in writing by the Supplier.

## 7. **DELIVERY**

7.1 The Supplier shall ensure that:

7.1.1 each delivery of the Goods is accompanied by a dispatch note;

7.1.2 each delivery of the Goods is accompanied by a certificate of conformity or relevant airworthiness certificate; and

7.1.3 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer

shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

- 7.2 The Supplier shall deliver the Goods to the Delivery Location at any time after the Supplier notifies the Customer that the Goods are ready.
- 7.3 Delivery is complete on the arrival of the Goods to the Delivery Location or, if the Customer organises the Carrier, when the Goods are placed at the disposal of such Carrier at the Delivery Location (**Completion of Delivery**).
- 7.4 Any dates quoted for delivery or for Delivery Lead Time are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 7.5 The Supplier shall use reasonable endeavours to inform the Customer if delivery is delayed, or if the Delivery Lead Time needs to be extended, and will use reasonable endeavours to provide a new delivery date or extended Delivery Lead Time. Clause 7.4 shall apply to any new Delivery Date or Delivery Lead Time given under this clause.
- 7.6 Subject to clause 7.9, if the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, or the Customer's failure to provide the Supplier with adequate delivery instructions, or any other instructions that are relevant to the supply of the Goods.
- 7.7 If the Customer fails to take or accept delivery of the Goods when the Supplier attempts to deliver the Goods (**Attempted Delivery**), then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- 7.7.1 delivery of the Goods shall be deemed to have been completed at 9am on the day after the date of the Attempted Delivery; and
- 7.7.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 7.8 If ten Business Days after the date of Attempted Delivery the Customer has not taken or accepted actual delivery of the Goods, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs,

account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

- 7.9 If the Supplier delivers up to and including 5% more (**Higher Quantity**) or less (**Lower Quantity**) than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered the Supplier shall make a pro rata adjustment to the invoice for the Goods. For the avoidance of doubt, where this clause 7.9 applies:

7.9.1 clause 7.6 shall not apply in respect of the number of Goods that should have been delivered (**Goods Due**), compared with the Lower Quantity of Goods actually delivered; and

7.9.2 the number of Goods Due under the Order shall be deemed to be varied up to the Higher Quantity of the Goods or down to the Lower Quantity of Goods (as applicable).

- 7.10 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 8. **INTERNATIONAL DELIVERY**

- 8.1 Unless otherwise agreed in writing between the parties, all Goods with a Delivery Location outside of EWS shall be Delivered At Place (**DAP Incoterm**) to the Delivery Location in accordance with the Incoterms of the International Chamber of Commerce (**ICC**) as in force at the date of this Contract.

- 8.2 If clause 8.1 applies:

8.2.1 and there is a conflict between these Conditions and the DAP Incoterm in force as at the date of this Contract, these Conditions shall prevail; and

8.2.2 the Customer shall be responsible for arranging carriage of the Goods from the Delivery Location outside of EWS to the destination determined by the Customer.

## 9. **QUALITY**

- 9.1 The Supplier shall provide the Warranty. Any Goods that do not comply with the Warranty are **Defective Good(s)**.

- 9.2 The Customer shall inspect the Goods on delivery and shall inform the Supplier and the Carrier (if such Carrier was organised by the Customer) in writing on the delivery



note or in writing within 10 days of Completion of Delivery, if the Goods are damaged or if there are any defects with the Goods that would be apparent of on a visual inspection (**Defective Delivery Report**). The Defective Delivery Report must include a description of the relevant damage or defect, and the number and type of Goods affected.

9.3 Subject to clause 9.4:

9.3.1 if the Customer has provided a Defective Delivery Report in accordance with clause 9.2 that some or all of the Goods do not comply with the Warranty; or

9.3.2 excluding where clause 9.3.1 applies, if the Customer discovers any relevant defect in the Goods during the Warranty Period and the Customer gives the Supplier written notice within a reasonable time of discovery (and no more than 10 days) that some or all of the Goods do not comply with the Warranty (**Defect Notice**). Such Defect Notice must include a description of the relevant defect, and the number and type of Goods affected,

and,

9.3.3 the Supplier is given a reasonable opportunity of examining such Goods; and

9.3.4 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's chosen address at the Supplier's cost,

the Supplier shall, at its option, replace the Defective Good(s), or refund the price of the Defective Good(s) in full.

9.4 The Supplier shall not be liable for any Goods' failure to comply with the Warranty if:

9.4.1 the Customer fails to provide either a:

9.4.1.1 Defective Delivery Report in accordance with clause 9.2; or

9.4.1.2 Defect Notice in accordance with clause 9.3.2.

9.4.2 the Goods were damaged during transit of the Goods by a Carrier organised by the Customer;

9.4.3 the Customer makes any further use of such Goods after giving a Defective Delivery Report or providing a Defect Notice in accordance with clause 9.2 or clause 9.3.2 respectively;

- 9.4.4 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
  - 9.4.5 the Customer alters or repairs such Goods without the written consent of the Supplier;
  - 9.4.6 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - 9.4.7 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements under clause 5.2.
- 9.5 Except as provided in this clause 9, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the Warranty.
- 9.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.7 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
10. **TITLE AND RISK**
- 10.1 The risk in the Goods shall pass to the Customer on Completion of Delivery.
- 10.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 10.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods; or
  - 10.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 10.4.
- 10.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 10.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
  - 10.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 10.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

- 10.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.1.2 to clause 14.1.4 (inclusive); and
- 10.3.5 give the Supplier such information as the Supplier may reasonably require from time to time relating to:
  - 10.3.5.1 the Goods; and
  - 10.3.5.2 the ongoing financial position of the Customer.
- 10.4 Subject to clause 10.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
  - 10.4.1 it does so as principal and not as the Supplier's agent; and
  - 10.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
  - 10.4.3 All parts that are resold, can only be sold for use on a Civil application.
- 10.5 At any time before title to the Goods passes to the Customer, the Supplier may:
  - 10.5.1 by notice in writing, terminate the Customer's right under clause 10.4 to resell the Goods or use them in the ordinary course of its business; and
  - 10.5.2 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 11. CUSTOMER DEFAULT

- 11.1 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, or any failure by the Customer to perform any relevant obligation (**Customer Default**):
  - 11.1.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend supply of the Goods until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - 11.1.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's

failure or delay to perform any of its obligations as set out in this clause 11.1; and

- 11.1.3 the Customer shall indemnify the Supplier against all Losses suffered or incurred by the Supplier arising directly or indirectly from the Customer Default.

## 12. **PRICE AND PAYMENT**

- 12.1 The price of the Goods shall be the price set out in the Order or otherwise confirmed in writing by the Supplier, or if no price is stated on the Order or confirmed in writing by the Supplier, the price of the Goods shall be the price set out in the Supplier's published price list in force as at the date of delivery.

- 12.2 The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods (or any specific Goods) to reflect any increase in the cost of the Goods (or specific Goods) that is due to:

12.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

12.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or

12.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

- 12.3 The price of the Goods:

12.3.1 excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice;

12.3.2 unless otherwise stated in writing by the Supplier:

12.3.2.1 excludes the costs and charges of insurance and transport of the Goods, which shall be invoiced to the Customer; and

12.3.2.2 includes the costs and charges of packaging.

- 12.4 The Supplier may invoice the Customer for the Goods on or at any time after the Completion of Delivery.

- 12.5 The Customer shall pay each invoice submitted by the Supplier:

- 12.5.1 within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier, which the Supplier has confirmed in writing to the Customer; and
- 12.5.2 in full and in cleared funds to a bank account nominated in writing by the Supplier,

and time for payment shall be of the essence of the Contract. For the avoidance of doubt, no discount shall be provided by the Supplier, due to the Customer settling any invoice before or on the due date for payment.

- 12.6 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 14, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 12.6 will accrue each day at 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.
- 12.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

### 13. **LIMITATION OF LIABILITY**

- 13.1 The Supplier has obtained insurance cover in respect of its own legal liability. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 13.2 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
  - 13.3.1 death or personal injury caused by negligence;
  - 13.3.2 fraud or fraudulent misrepresentation;
  - 13.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;  
or
  - 13.3.4 defective products under the Consumer Protection Act 1987.

- 13.4 Subject to clause 13.3, the Supplier's total liability to the Customer shall not exceed \$25,000,000.00 (twenty-five million dollars).
- 13.5 Subject to clause 13.3, the following types of loss are wholly excluded:
- 13.5.1 loss of profits;
  - 13.5.2 loss of sales or business;
  - 13.5.3 loss of agreements or contracts;
  - 13.5.4 loss of anticipated savings;
  - 13.5.5 loss of use or corruption of software, data or information;
  - 13.5.6 loss of or damage to goodwill; and
  - 13.5.7 indirect or consequential loss.
- 13.6 This clause 13 shall survive termination of the Contract.

#### 14. **TERMINATION**

- 14.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 14.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of the Customer being notified in writing to do so;
  - 14.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - 14.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 14.1.4 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

- 14.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if:
- 14.2.1 the Customer becomes subject to any of the events listed in clause 14.1.2 to clause 14.1.4 (inclusive);
  - 14.2.2 the Supplier reasonably believes that the Customer is about to become subject to any of the events listed in clause 14.1.2 to clause 14.1.4 (inclusive); or
  - 14.2.3 if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 14.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 14.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 14.5 Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 14.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
15. **FORCE MAJEURE**
- 15.1 Provided it has complied with clause 15.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Contract by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 15.2 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

15.3 The Affected Party shall:

15.3.1 as soon as reasonably practicable after the start of the Force Majeure Event inform the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

15.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

## 16. **DISPUTE RESOLUTION**

16.1 If:

16.1.1 the Customer is incorporated outside of EWS; or

16.1.2 the Customer's operations in relation to the supply of Goods under this Contract are wholly or mainly based outside of EWS; and

16.1.3 clause 16.2 does not apply,

and a Dispute arises, then the parties shall follow the procedure set out in clause 16.3. If the Dispute is not resolved under clause 16.3, then the parties shall resolve the Dispute in accordance with clause 17.

16.2 If:

16.2.1 the Customer is incorporated inside of EWS; or

16.2.2 the Customers' operations in relation to the supply of Goods under this Contract are wholly or mainly based inside of EWS,

and a Dispute arises, then the parties shall follow the procedure set out in clause 16.3. If the Dispute is not resolved under clause 16.3, then either party may elect to resolve the Dispute under clause 18.9.

16.3 Procedure:

16.3.1 Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On receipt by the other party of the Dispute Notice (**Receipt**), the Group Sales Director of the Supplier (**Supplier's Representative**) and a Director of the Customer (**Customer's Representative**) shall attempt in good faith to resolve the Dispute;



- 16.3.2 If the Customer's Representative and Supplier's Representative are for any reason unable to resolve the Dispute within 30 days of Receipt, the Dispute shall be referred to the Chairman of the Supplier (**Supplier's Senior Representative**) and Chairman (or equivalent) of the Customer (**Customer's Senior Representative**) who shall attempt in good faith to resolve it; and
- 16.3.3 If the Customer's Senior Representative and Supplier's Senior Representative are for any reason unable to resolve the Dispute within 30 days of it being referred to them, then resolution of the Dispute shall be progressed in accordance with clause 16.1 or 16.2 as applicable.
- 16.4 No party may commence any court or arbitration proceedings (as applicable) in relation to the whole or part of the Dispute until the time period specified in clause 16.3.3 has expired.
17. **ARBITRATION**
- 17.1 If clause 16.1 applies, the Dispute shall be finally resolved by arbitration under the UNCITRAL Rules in force at the date of this Contract. It is agreed that:
- 17.1.1 subject to clause 17.1.2.3, the tribunal shall consist of one arbitrator;
- 17.1.2 if the Dispute relates to:
- 17.1.2.1 a technical issue, the arbitrator shall have at least MSc in Aeronautical Engineering and accreditation to the Royal Aeronautical Society (RAeS) (**Technical Arbitrator**);
- 17.1.2.2 a legal issue, the arbitrator shall be a qualified solicitor or barrister with at least 10 years PQE (**Legal Arbitrator**); or
- 17.1.2.3 both a technical issue and a legal issue, or if the parties cannot agree on whether the Dispute relates to a technical issue or a legal issue, the number of arbitrators shall be three, with one being a Technical Arbitrator and one being a Legal Arbitrator.
- 17.1.3 in default of the parties' agreement as to the arbitrator(s), the appointing authority shall be the International Chamber of Commerce, ICC Rules 2012;
- 17.1.4 the seat of the arbitration shall be London, England;
- 17.1.5 the law governing shall be as set out in clause 18.8; and
- 17.1.6 the language of the arbitration shall be English.

18. **GENERAL**

18.1 **Assignment and other dealings.**

18.1.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

18.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

18.2 **Entire agreement.**

18.2.1 The documents specified in clause 4.1 constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter.

18.2.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

18.3 **Variation.** Except as set out in these Conditions, no variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18.4 **Waiver.** Except as set out in clause 2.6, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18.5 **Severance:**

18.5.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

18.5.2 If any provision of the Contract is deemed deleted under clause 18.5.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## 18.6 Notices.

18.6.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

18.6.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

18.6.1.2 sent by email:

(a) to the Customer's email address as set out on the Order; or

(b) to the Supplier via sales@farsound.com.

18.6.2 Any notice shall be deemed to have been received:

18.6.2.1 if delivered by hand, at the time the notice is left at the proper address;

18.6.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting;

18.6.2.3 if sent by pre-paid airmail at 9.00am on the fifth Business Day after posting; or

18.6.2.4 if sent by email (provided no bounce-back signalling non-delivery or the like is received), at the time of transmission to the correct email address, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 18.6.2.4, **business hours** means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

18.6.3 A party may change its details given in clause 18.6.1 by giving notice written notice in accordance with this clause 18. Such change shall take effect for the party notified of the change at 9.00 am on the later of:

18.6.3.1 the date, if any, specified in the notice as the effective date for the change; or

18.6.3.2 the date two Business Days after deemed receipt of the notice.

18.6.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**18.7 Third party rights.**

18.7.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

18.7.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

**18.8 Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

**18.9 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

**1. SCHEDULE 1**

1.1 The following terms have the following meanings:

**1.1.1 Warranty:**

1.1.1.1 The Supplier warrants that from Completion of Delivery and for the Warranty Period (as defined below), that the Goods shall:

- (a) conform in all material respects with their description; and
- (b) be free from material defects in design, material and workmanship.

**1.1.2 Warranty Period:** means the period of time from Completion of Delivery until the expiry of 90 days from the date of Completion of Delivery.