

## **GCP**

**1. TERMS AND CONDITIONS:** These general conditions of purchase including the Country Schedule(s) attached hereto in relation to the Rolls-Royce company issuing a purchase order or scheduling agreement ("GCP") together with the terms and special conditions appearing on a purchase order and/or scheduling agreement ("Order") and any executed supply agreements concerning the Deliverables between the Parties ("Supply Agreement") and applicable Government terms together called "Procurement Conditions" are the only conditions on which Rolls-Royce procures services or goods or both ("Deliverables"). Rolls-Royce (or "R-R") means the entity or entities that have signed a Supply Agreement or created a contract with the supplier accepting an Order ("Supplier"). Such R-R entity or entities will be severally but not jointly liable under the Procurement Conditions. Any terms other than the Procurement Conditions will be null and void.

**2. TITLE:** Title to goods will pass to R-R upon receipt at R-R's designated facility.

**3. DELIVERY:** Timely delivery in accordance with the Order is a material condition of the Procurement Conditions. Unless otherwise provided for on the Order, Deliverables will be delivered to R-R FCA Supplier's facility (INCOTERMS® 2010). If the delivery times as set out in the Order cannot be met or at any time at R-R's request, the Supplier will provide prompt information to R-R as to the causes and the mitigation action it proposes to take.

**4. PRICES, INVOICES AND PAYMENT:**

4.1. The price stated on an Order is inclusive of all duties, levies and taxes in the country of origin of the Deliverables excluding value added tax or equivalent tax.

4.2. Where the Procurement Conditions require the Supplier to submit an invoice, the Supplier will post invoices to R-R's Purchase Accounts Department at the address on the Order on the day on which Deliverables are despatched or completed. The invoice will include the Order number.

4.3. R-R will electronically transfer payment to the Supplier 75 days end of week after the date on which the relevant goods have been received or services completed, provided that the Supplier has supplied such goods or services in accordance with the Procurement Conditions and, where the Supplier is required to submit an invoice, such invoice is accurate and was received by R-R's Purchase Accounts Department within 7 days of despatch or completion of goods or services. If such day is not a normal banking day then electronic transfer of payment will be on the next banking day. Where R-R collects goods from non R-R premises, "received" means formal receipt by R-R's nominated courier or where the goods are delivered to R-R's premises, "received" means formal receipt by R-R's goods received area. Without prejudice to R-R's other rights and remedies, R-R may deduct from any payments due to the Supplier under any Procurement Condition the amount of any bona fide contra accounts or other claims that R-R may have against the Supplier in connection with the Procurement Conditions or any other agreement.

4.4. For the purpose of this clause 4.4, "R-R Accounting Period" means the period during which the financial year is divided into 12 calendar month periods for R-R accounting purposes. (a) If the Supplier participates in a goods delivery service with R-R then, subject to applicable law, after delivery of the Deliverables, R-R will raise an invoice on behalf of the Supplier for the Deliverables that will serve as a VAT invoice (a "**Self-Billed Invoice**"). R-R may elect to use e-invoicing as a method for raising Self-Billed Invoices electronically. (b) The Supplier is liable to pay any VAT due on the Deliverables to its local tax authorities as output tax. (c) The Supplier will, where it has one, provide R-R with the Supplier's VAT registration number and any other details reasonably requested by R-R for the purposes of raising the Self-Billed Invoice. R-R will use a sequential invoicing procedure to generate the applicable invoice number that will be referenced on the Self-Billed Invoice. (d) R-R will raise the Self-Billed Invoice based on the information provided by the Supplier in writing from time to time and, the provision by the Supplier of this information will, subject to clause 4.4(f) below, constitute the Supplier's acceptance to the VAT treatment applied by R-R. (e) For the purpose of converting the applicable VAT amount into GBP (£) Sterling, R-R will use the currency conversion rates as published by Reuters (on its webpage), at the end

of the business day of the Thursday prior to the start of each R-R Accounting Period. (f) The Supplier will not raise its own invoice for the Deliverables and will notify R-R as soon as practicable if: (i) its VAT registration number changes; (ii) it ceases to be VAT registered; (iii) the Self-Billed invoice is not compliant with the requirements of its local tax authority; (iv) subject always to clauses 10 and 17 of the GCP, it transfers its business as a going concern; or (v) there are any other changes which may affect how VAT is assessed in relation to this Agreement. (g) R-R and the Supplier will during each contract year of the applicable Order or Supply Agreement, confirm to the other in writing its approval to continue with the Self-Billed Invoice process. R-R, or its nominated third party service provider, may, at its absolute discretion and on an annual basis, audit the Supplier's compliance with the requirements of this clause 4.4 and the Supplier agrees to provide all necessary facilities and assistance for such audit to take place.

## **5. R-R PROPERTY:**

5.1. Unless otherwise agreed in writing, all tools, equipment, parts, materials, drawings, or other documented data of every description furnished to Supplier by R-R or specifically paid for by R-R, and any replacement thereof, or any materials affixed or attached thereto, will be and remain the property of R-R or, if R-R is not the owner, of the owner. Such property, and whenever practical each individual item thereof, will be plainly and permanently marked or otherwise adequately identified by Supplier as "Property of R-R" (or, if R-R is not the owner, "Property of [the owner]") and will be safely stored separate and apart from Supplier's property. Supplier will not substitute any property for the property furnished to Supplier by R-R and will not use such property except in filling R-R's Orders. Such property while in Supplier's custody or control will be held at Supplier's risk, will be kept insured by Supplier at Supplier's expense in an amount equal to the replacement cost with insurance proceeds payable to R-R. Such property will be subject to removal at R-R's written request, in which event Supplier will prepare such property for shipment and will deliver it as directed by R-R in the same condition as originally received by Supplier, reasonable wear and tear excepted, all at Supplier's expense. The foregoing will not be deemed to affect the rights, if any, of the United States Government in such property.

5.2. Supplier will indemnify R-R against any and all liability for damage to property or injury to or death of persons arising from or incidental to the presence or use of R-R furnished property, whether such damage, injury, or death be caused by defects in such property, negligence in the use thereof, strict liability or otherwise.

5.3. It will be the responsibility of the Supplier to maintain, keep in good condition, and replace when necessary at Supplier's expense all such tools, material and equipment in order that such tools, material and equipment at all times have the capacity to produce parts in conformance with the Procurement Conditions. All such replacements will be the property of R-R and will be so identified. Any tooling paid for by R-R is the sole property of R-R.

5.4. Supplier agrees to provide, at any time on the request of R-R, a report including a list of all R-R property, the location of such property, the condition of such property and, if appropriate, a forecast of the remaining usable life of such property.

5.5. Supplier assumes all liability for loss or damage, with the exception of normal wear or tear, and agrees to supply detailed statements of R-R's property in Supplier's possession, custody or control at monthly intervals or as otherwise agreed upon to the extent necessary under applicable law.

## **6. QUALITY, WARRANTY AND CODES OF PRACTICE:**

6.1. To the extent applicable for the performance of an Order, Supplier will comply with all quality requirements of R-R as set out on R-R web site at <https://suppliers.rolls-royce.com/> and all specification requirements and any other quality requirements set out in an Order. The Supplier will inspect and release Deliverables in accordance with the said quality requirements.

6.2. The Supplier warrants that all Deliverables will conform to the Procurement Conditions and will be free from defects in material, workmanship and, if the Supplier has responsibility for design, the Supplier further warrants that all Deliverables will be free from defects in design.

6.3. If Deliverables do not conform to the requirements set out in clauses 6.1 and 6.2 above ("Non-Conformance") and without prejudice to R-R's other rights and remedies which R-R may have, including without limitation the right to charge the Supplier the administrative charges set out on RR website at <https://suppliers.rolls-royce.com/>, the Supplier will promptly replace or, where appropriate, repair or rectify any such Non-Conformance at its own expense within 30 days of receipt of written notice of Non-Conformance. If the Supplier fails to promptly repair, rectify or replace any Non-Conformance, R-R may, without prejudice to its other rights and remedies, (i) choose to accept the Non Conformance and R-R will be entitled to reasonably adjust the Order price; or (ii) rectify or arrange to have rectified such Non-Conformance; or (iii) procure Deliverables from alternate sources in order to meet customer requirements.

6.4. The Supplier will ensure that it and its personnel will comply with all relevant R-R provisions and codes of practice of R-R as set out on R-R website at <https://suppliers.rolls-royce.com/> including without limit, its standard security and health and safety requirements as applicable, copies of which are available on request. The Supplier agrees that R-R or their designated agent will have the right to enter the Supplier's facilities at reasonable times to inspect the facility, Deliverables, materials and any property of R-R. Such inspection will not constitute or imply acceptance of any Deliverables.

## **7. TERMINATION:**

7.1. Without prejudice to any rights and remedies, R-R may immediately terminate an Order in whole or in part by giving the Supplier written notice, identified as a "Notice of Termination", whereupon all work on that Order will cease. R-R will pay the Supplier in full and final satisfaction of all claims arising out of such termination: the price of all Deliverables which the Supplier has justifiably produced and completed in accordance with such terminated Order or part of the Order and which R-R has not paid for; the cost of settling any legally justified claims in connection with the necessary termination of sub contracts justifiably entered into in respect of the terminated Order or part thereof and the cost to the Supplier of any justified work in progress in respect of such Order.

7.2. The amount payable to the Supplier under Clause 7.1 above will not exceed the total amount that would have been payable to the Supplier for the Deliverables and payment is subject to the Supplier submitting its notice of claim within 2 calendar months of the termination date. Any finished Deliverables and any work in progress paid for by R-R under Clause 7.1 above will be delivered to R-R or be held by the Supplier as R-R property in accordance with clause 5 above.

7.3. If R-R has reasonable grounds for believing the Supplier will be unable to substantially fulfil its obligations, R-R may require the Supplier to provide reasonable written evidence that the Supplier will fulfil its obligations. If the Supplier fails to provide such evidence within 30 days of R-R's request, R-R may treat that failure as a material breach and terminate the relevant Order or any agreement relating to the Deliverables in whole or part.

7.4. Either Party has the right, without prejudice to its other rights and remedies, to terminate any Order or the Supply Agreement without liability, if the other Party commits any material breach of any of its obligations under the Procurement Conditions which it fails to rectify within 30 days of written notice of that breach (no notice period will apply for a breach of delivery terms) or makes a general arrangement with its creditors; or ceases or threatens to cease to carry on its business or a substantial part of it or is unable to pay its debts within the meaning of the applicable law as defined below; enters into liquidation whether compulsory or voluntary, except as a solvent company for the purposes of amalgamation or reconstruction; or has an administrator or administrative receiver of the whole or part of its assets appointed or if any equivalent proceeding under any competent jurisdiction occurs.

7.5. Except for clause 7.1 where termination is effective immediately on giving the Notice of Termination, termination will be effected 30 days from the terminating Party issuing a notice of termination to the other Party.

## **8. INTELLECTUAL PROPERTY:**

8.1. "Intellectual Property" or "IP" includes any and all inventions whether or not patentable, utility models, trademarks, component designs or manufacturing processes and any improvements or enhancements thereto, copyrights and moral rights, database rights, trade secrets and know-how, in each case whether registered or unregistered, and also including identified technical and non-technical or business-related information such as specifications, computer programs, drawings or blueprints.

8.2. If any Deliverables, including, without limitation, any products, processes or business methods arise out of any research or development that is funded by R-R, then all Intellectual Property arising there from, including, without limit, new technologies that are developed under such funding and all Intellectual Property rights in and to the same, will vest solely and absolutely in R-R. Any and all R-R owned or licensed Intellectual Property including, without limit, designs, drawings, processes and developments which may be supplied to the Supplier pursuant to any Order will remain the sole and undivided property of R-R and/or its licensors. The Supplier will require its employees, sub-contractors and agents to sign all papers and do such acts and things as are reasonably necessary for R-R to secure title in, and to pursue formal patent grant or registration of, any Intellectual Property and Intellectual Property rights arising out of or in connection with any Order as contemplated by this clause.

8.3. If any allegation is made or any claim asserted against R-R, or any person claiming title from or through R-R, that any act done or proposed to be done in relation to Deliverables constitutes a violation or infringement of any patent, copyright, registered design or other proprietary right held by a third party, the Supplier will indemnify R-R and hold R-R harmless for and against any loss or damage (including, without limitation, all costs and expenses) arising directly or indirectly out of such allegation or claim howsoever caused unless the allegation or claim is the direct result of the Supplier following a design or process required by R-R.

8.4. In addition to the indemnity set out in Clause 8.3 the Supplier will procure for R-R a worldwide, non-exclusive, royalty-free, irrevocable license to manufacture, use and sell the Deliverables or have such replaced with substantially equivalent non-infringing Deliverables.

8.5. The Supplier is licensed to use and will use the R-R Intellectual Property and R-R Intellectual Property rights only for the purposes of performing its obligations under the Procurement Conditions and not otherwise.

## **9. PROPRIETARY INFORMATION:**

9.1. "Proprietary Information" means all commercial, financial, technical or operational information, and any intellectual property not publicly known or available, which by its nature is confidential, and such information that has been or may be disclosed or otherwise made available in whole or in part to a receiving Party or any Representative in any form or medium. "Representative" means any one or more directors, officers, temporarily contracted personnel, or Affiliate of a Party or, in the case of R-R, any of its risk and revenue sharing participants insofar as those participants require Proprietary Information relating to the Supplier including, without limitation, information relating to specifications and directed buy price. "Affiliates" means any entity that controls, is controlled by, or is under common control with either Party, and "control" means (a) an ownership interest, directly or indirectly, of more than fifty percent (50%) in such entity or Party, or the maximum percentage permitted under local laws or regulations in those countries where more than fifty percent (50%) ownership by a foreign entity is not permitted, or (b) the ability to direct the management or policies of such entity or Party, whether through ownership, contract, or otherwise. The Parties agree to exchange and disclose to each other certain of their Proprietary Information. Such information may include hardware, software, component design, manufacture, inspection, repair and overhaul, business information relating to supplies, pricing, costs, profits, business plans and strategies, customer or vendor lists and legal or financial advice. Documents containing Proprietary Information should be marked as "Proprietary," and for non-US purposes the term "Confidential" may be used instead however, the Parties agree that such information will be considered Proprietary Information, even if it is inadvertently not marked as such. Proprietary Information will be disclosed only as necessary and only for the purpose of fulfilling an Order. Title to any Proprietary Information will not be affected by any such exchange or disclosure.

9.2. Any Proprietary Information disclosed by one Party to the other in connection with an Order (whether from R-R and/or any of R-R's risk and revenue sharing participants), or a proposed Order will be treated in confidence and, save in respect of disclosures to Representatives, will not be copied or disclosed to any third party without the prior written consent of the disclosing Party. The receiving Party may only disclose Proprietary Information to its Representatives on a need-to-know basis in connection with these Procurement Conditions. The receiving Party will, at its sole cost and expense, ensure that the nondisclosure obligations of these Procurement Conditions are known, understood by and complied with by its Representatives. The receiving Party will be liable for any and all breach of confidence by its Representatives. These provisions do not apply to Proprietary Information that: (i) is in the public domain at the time of receipt by the receiving Party through no fault of the receiving Party; (ii) is lawfully received by the receiving Party from a third Party who is without an obligation of nondisclosure; (iii) is developed by the receiving Party independently of the Proprietary Information, as established by extrinsic evidence, or (iv) is known by the receiving Party at the time of receipt.

9.3. The receiving Party will make only such copies or duplicates of any Proprietary Information as are necessary for the purposes contemplated. All copies will be maintained in confidence in the same manner as the originals from which the copies were made.

9.4. Upon expiry or termination of an Order, the receiving Party will destroy, or return upon request, any Proprietary Information, including all copies, belonging to the other Party disclosed in relation to that Order. The receiving Party acknowledges that it has no rights of use in or to such Proprietary Information after the return date or date of destruction.

9.5. If the receiving Party or any of its Representatives believes it is required by law or is otherwise obliged to disclose any Proprietary Information to any third party for any reason, the receiving Party will provide the disclosing Party with immediate written notice of such requirement or obligation (together with a copy of any relevant access request, court order, or other evidence giving rise to such belief) to enable the disclosing Party to seek appropriate protective relief or to take steps to resist or narrow the scope of any required disclosure. The receiving Party will co-operate with the disclosing Party with respect to such matters and will in any event disclose only such Proprietary Information as it has ascertained, after taking legal advice, it is legally compelled to disclose, and will ensure to the best of its ability that all Proprietary Information so disclosed is accorded confidential treatment. The receiving Party will always notify the disclosing Party in writing of the means, content and timing of such disclosure prior to such disclosure being made.

9.6. Notwithstanding the Supplier's obligation to obtain R-R written permission to disclose R-R Proprietary Information to a third party, the Supplier will procure that all R-R Proprietary Information supplied by R-R under any Order that is in the possession of the Supplier's sub-tier suppliers, sub-contractors and agents will be held in confidence and that it will take all necessary steps and actions to ensure that any such third party complies with all confidentiality provisions herein. The Supplier will indemnify and hold R-R harmless in the event of any breach of such provisions by any such third parties. Furthermore, the Supplier will notify R-R immediately on becoming aware of a breach or a potential breach and will inform R-R of what actions it is taking to prevent or remedy such breach or potential breach to ensure risks to R-R are mitigated. R-R reserves the right to take its own action against any such third party that misuses or that might reasonably misuse its Proprietary Information and to direct the Supplier to take certain actions.

9.7. The receiving Party will maintain and reproduce on all copies (including electronic documents), the proprietary markings and other legends contained on the Proprietary Information, and the receiving Party will not add any further markings to such Proprietary Information without the prior written consent of the disclosing Party. In addition, the Supplier will not without the prior written consent of R-R, use any R-R Proprietary Information to manufacture, supply, design, develop, sell, or provide goods, work, or services to any third party.

## **10. CONTROLLING INTEREST:**

10.1. "Competitor" means the acquirer or any entity that is in the same corporate structure as such acquirer, including but not limited to parent, subsidiary, joint venture company that offers or sells products or services in competition with the products or services offered or sold by any entity of the Rolls-Royce group, and "Controlling Interest" means any interest sufficient to give the power to secure by law or corporate action the ability to direct and conduct the business of the Supplier.

10.2. While the Supplier is under contract to R-R, if a Competitor acquires or is in due diligence to acquire a Controlling Interest in the Supplier, its sub-contractor or any holding company, subsidiary or division of the Supplier performing under an Order, the Supplier will immediately notify R-R in writing of the actual or potential acquisition, subject to regulatory or statutory obligations and the identity of such likely acquirer subject to the agreement of such likely acquirer.

10.3. If the third party directly or indirectly acquiring a controlling interest in the Supplier is a Competitor, then R-R may, without prejudice to any other rights and remedies it may have, immediately by written notice terminate an Order or the Supply Agreement in whole or part.

10.4. In addition to the provisions in clauses 10.1 to 10.3 above, if during the term of the Supply Agreement any third party or parties (acting together) takes any steps to acquire a Controlling Interest in the Supplier, its sub-contractor or any holding company, subsidiary, group company or division of the Supplier, the Supplier shall immediately notify R-R in writing of the actual or potential acquisition and the identity of the third party or parties involved. If R-R determines that such an acquisition is or could potentially be contrary to its commercial interests, or could impair Supplier's performance of its obligations, R-R may, without prejudice to any other rights and remedies it may have, including specifically under clause 7.3 of the GCP, immediately by written notice terminate an Order or the Supply Agreement in whole or part. In the event of such a termination (i) R-R will, in full and final satisfaction of all claims arising out of such termination, pay the Supplier the price of all Deliverables which the Supplier has justifiably produced and completed in accordance with such terminated Order or part of the Order before the date of termination and for which R-R has not paid; and (ii) if it has not already done so, the Supplier will promptly deliver all Deliverables produced and completed before the termination date to R-R or hold such Deliverables as R-R property.

**11. PERSONAL INFORMATION:** If the Supplier deals in the personal information of any employee or contractor of R-R, it will at a minimum and regardless where it is located and whether it is the controller or processor of such information, comply at a minimum with R-R's instructions, and the relevant laws on the protection of personal information in the jurisdiction of the R-R entity placing an Order. The Supplier will, at all times during and after the contract period, indemnify R-R and keep R-R indemnified for and against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by R-R arising from its breach of this clause except and to the extent that such liabilities have resulted directly from the instructions of R-R.

## **12. EXPORT CONTROL LAWS:**

12.1 The Supplier acknowledges that any information provided to or received by it in accordance with or in relation to the GCP, the Supply Agreement or an Order may be subject to export control laws and regulations including, without limitation the United States Department of State International Traffic in Arms Regulations ("ITAR") and the United States Department of Commerce Export Administration Regulations ("EAR"). The Supplier agrees that it will strictly comply with all applicable requirements under such laws and regulations. The Supplier warrants and undertakes that it will not use or permit the use of, export or transfer (by any means, electronic means or otherwise), any information or Deliverables which are subject to export control laws and regulations without complying in all respects with the applicable export control laws and regulations including, without limitation, all codes of conduct, relevant export licence(s), guidelines, notices and instructions in relation to any use, export or transfer of information or Deliverables.

12.2 The Supplier agrees to afford R-R and any competent governmental department or other governmental administrative body access to Supplier's premises, for the purpose of auditing Supplier's compliance with the requirements of 12.1 above and to provide all necessary facilities and assistance for such audit to take place.

12.3 Where the Deliverables to be provided by the Supplier pursuant to any Order include the provision of services to be performed for or on behalf of R-R and which will, or may, involve Supplier's employees having or having the potential to gain access to information which is subject to export control laws and regulations; the Supplier will comply with i) all applicable export control laws and regulations including, without limitation, all codes of conduct, relevant export license(s), agreements, guidelines, notices and instructions in relation to any use, export or transfer of information and ii) all requests and requirements of R-R for the same purpose.

12.4 In the event the Supplier breaches any of the provisions of this clause 12 the Supplier shall indemnify R-R with respect to all losses, damages, claims, compensation, awards, expenses (including without limitation legal fees), fines and judgments incurred by R-R as a result or as a consequence of such breach.

**13. INDEPENDENT CONTRACTOR:** Neither Party will (i) represent itself as the agent or partner of the other Party; nor (ii) do anything (or omit to do anything) which might result in any person believing that such Party has the authority to contract or enter into commitments on behalf of, or in the name of, the other Party.

**14. PUBLICITY:** Neither Party will use the other Party's name or trademarks in any publicity without the other Party's prior written permission.

**15. WAIVER AND REMEDY:** The rights of a Party may be exercised as often as it considers appropriate, are cumulative and apply in addition to any other rights available at law or equity. A waiver of any rights hereunder shall not be effective unless expressly waived in writing signed by the affected Party. Not exercising or a delay in exercising a right is not a waiver of that right.

**16. CONFLICT:** If there is a conflict of terms the order of precedence will be: (1) any applicable Government terms; (2) the Supply Agreement; (3) the GCP; (4) terms in an Order other than Government terms; and (5) the statement of work (if any).

**17. TRANSFER AND THIRD PARTY RIGHTS:** Except as expressly provided, no Party will assign or otherwise transfer any of its rights or obligations to any third party. However, R-R may, upon prior written notice to the Supplier, transfer any or all of its rights or obligations under these Procurement Conditions to any of its Affiliates. Nothing in the Procurement Conditions will be construed as creating any rights in respect of any third parties (including, without limitation, any employee, officer, agent, representative or sub-contractor of any Party) under, as a result of, or in connection with the Procurement Conditions.

**18. NOTICES:** Except as expressly set out otherwise in this agreement, all non-legal notices to be served under any Order must be in writing and addressed to the Party at the address on the Order. Such notices may be delivered by hand or sent by fax or recorded delivery post. Service of legal notices will comply with the relevant provisions in the relevant Country Schedule.

**19. AMENDMENTS:** Except as expressly provided in this SA, the Procurement Conditions will not be amended other than by an agreement in writing signed by an authorised signatory of the Parties concerned, which is expressly stated to amend the Procurement Conditions.

**20. SEVERABILITY:** If any provision of the Procurement Conditions becomes illegal, invalid or unenforceable in any jurisdiction in relation to any Party, that provision will not invalidate the remaining provisions or affect the legality, validity or enforceability of that or any other provision in any other jurisdiction.

**21. REPRESENTATIONS:** The Parties agree that they have not contracted on the basis of any oral or written warranty representations, statements, communications, agreements or undertakings ("Representations"). The Parties agree that they will have no right or remedy in respect of any

Representations (whether made negligently or innocently), except those expressly incorporated in the Procurement Conditions. Nothing in this clause 21 will limit or exclude any liability for fraud.

**22. SURVIVAL:** The provisions of clauses 5 - 9, 11, 12 and 14 - 23 and such clauses as stated to survive in any relevant Country Schedule will survive any expiry or earlier termination or after the Order becomes impossible of performance or is otherwise frustrated.

**23. FORCE MAJEURE:** Any delay or failure of either Party to perform its obligations hereunder will be excused if, and to the extent that it is caused by an event or occurrence not reasonably foreseeable and beyond the reasonable control of the affected Party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, inability to obtain power, material, labour, equipment or transportation, or court injunction or order; provided that written notice of such delay (including the anticipated duration of the delay) will be given by the affected Party to the other Party as soon as possible but in any event not later than 5 days. During the period of such delay or failure to perform by Supplier and after prompt notice from Supplier to R-R of the occurrence of such an event, R-R, at its option, may purchase Deliverables from other sources and reduce its requirement to Supplier by such quantities, without liability to Supplier, or have Supplier provide the Deliverables from other sources in quantities and at times requested by R-R and at the price set forth in the Order. If requested by R-R, the Supplier will, within 10 days of such request, provide adequate assurances that the delay will not exceed 30 days. If the delay lasts more than 30 days, R-R may immediately cancel an Order without liability. The Supplier will in any event, make all reasonable endeavours to mitigate the effects of any delay. For the avoidance of doubt, strikes, lock outs or other industrial action or disputes specific to the Supplier and/or its subcontractors or agents shall not be considered a force majeure event.

**24 REACH:**

24.1 Supplier warrants that where it sells, supplies or transfers Deliverables to R-R in Europe, and Regulation (EC) No. 1907/2006 of the European Parliament concerning the registration, evaluation, authorisation and restriction of chemicals ("REACH") applies, it has complied with REACH and that each chemical substance constituting or contained in or used in the manufacture of Deliverables sold, supplied or transferred to R-R is, where required, registered; registered for R-R particular use; supplied with a safety data sheet compliant with REACH; is not restricted under Annex XVII of REACH; and if it appears on Annex XIV of REACH is authorised for R-R use.

24.2 Whether or not REACH applies, Supplier will immediately notify R-R if any Deliverables sold, supplied or transferred to R-R contain a substance listed on the Candidate List of Substances of Very High Concern for Authorisation ("the Candidate List") published by the European Chemicals Agency. Supplier will give R-R the name of the chemical substance and any information required by R-R to allow safe use of the Deliverables or to fulfil its own obligations under REACH. This clause 24.2 applies whether the sale, supply or transfer of Deliverables to R-R is inside or outside Europe.

24.3 Whether or not REACH applies to any Deliverables sold, supplied or transferred to R-R, on request by R-R, Supplier will provide all information required by R-R which will enable R-R to comply with its duty to communicate information on substances in articles as required by Article 33 of REACH, including but not limited to chemical composition, test data, hazard information and safety data sheets. This clause 24.3 applies whether the sale, supply or transfer of Deliverables to R-R is inside or outside Europe.

24.4 Supplier will comply with any other request for information by R-R which is required to enable R-R to comply with its obligations under REACH. All information supplied to R-R under clauses 24.1 to 24.4 will comply with REACH and any other requirements of R-R expressly notified to the Supplier by R-R. This clause 24.4 applies whether the sale, supply or transfer of Deliverables to R-R is inside or outside Europe.

24.5 Clause 6.3 will apply if Deliverables do not conform to the requirements set out in Clause 24. Supplier will indemnify R-R against any and all damages, losses, costs, actions, claims, liabilities or expenses suffered or incurred by R-R whether in contract, tort (including negligence) breach of statutory



duty or otherwise, arising out of or in connection with any breach by the Supplier relating to clauses 24.1 to 24.5.

## **25. INSURANCE:**

25.1. The Supplier will maintain in force:

- (a) where the Deliverables are to be incorporated in or attached to any product connected to aviation, aviation products legal liability insurance with a limit of at least US\$500,000,000 (five hundred million US dollars) for any one occurrence and in the annual aggregate;
- (b) where the Deliverables are not going to be incorporated in or attached to any product connected to aviation, product liability insurance with an annual aggregate limit of at least £15,000,000 (fifteen million pounds sterling) per claim (or series of connected claims) or its equivalent in US dollars;
- (c) public liability insurance with a limit of at least £15,000,000 (fifteen million pounds sterling) per claim (or series of connected claims) or its equivalent in the currency of the country in which the Supplier is based;
- (d) any other insurance which the Supplier is required by law to maintain; and
- (e) any other insurance which another supplier in the same industry as the Supplier or carrying on the same type of business as the Supplier, would usually maintain.

25.2. For the insurance policies set out at clauses 25.1(a), 25.1(b) and 25.1(c) the Supplier will:

- (a) ensure that R-R's interest is recorded on the policies either as an 'additional insured' or via an 'indemnity to principal' clause for the benefit of R-R;
- (b) include a waiver of subrogation in favour of R-R;
- (c) on the renewal of each policy, send to R-R a broker's letter or certificate of insurance as confirmation of cover; and
- (d) administer and maintain the policies and the Supplier's relationship with its insurers at all times to preserve the benefits for R-R set out in this agreement and will procure that the terms of such policies will not be altered in such a way as to diminish the benefit to R-R of the policies as provided at the date of this agreement.

25.3. The Supplier will, during the Term and for a period of five years thereafter do nothing to invalidate the insurance policies set out in this clause 25 and will preserve R-R's entitlement under such policies and will provide to R-R, 30 days notice before any such policy is altered or cancelled in any material respect.

25.4. The Supplier will provide R-R with evidence of compliance with this clause 25 on request and within 10 days of the Effective Date. If R-R is not satisfied with the Supplier's compliance with this clause 25, then R-R may, at its discretion, choose to procure the insurances set out at clause 25.1 on the Supplier's behalf and recover from the Supplier any resulting costs or premiums.

25.5. The Supplier's insurance coverage will not be R-R's exclusive remedy and is without prejudice to any other rights and remedies that R-R may have.

**26. THIRD PARTY MANUFACTURERS:** The Parties acknowledge that the terms and conditions (including the prices) applicable under the Procurement Conditions have been negotiated on the basis that, if the Supplier, at any time during the Term either: (a) makes a separate offer to any Affiliate and / or sub-contractor and / or risk and revenue sharing participant of R-R to manufacture and supply the Deliverables; or (b) is requested by R-R to manufacture and supply the Deliverables to any Affiliate and / or sub-contractor and / or risk and revenue sharing participant of R-R, then the Supplier warrants, undertakes and represents that it will enter into a supply agreement with the Affiliate and / or sub-contractor and / or risk and revenue sharing participant on the same or more favourable terms (including at the same or a more favourable price) to such Affiliate and / or sub-contractor and / or risk and revenue sharing participant (subject always to any specific requirements of the local law of such Affiliate and / or sub-contractor and / or risk and revenue sharing participant).

## **27. TOOLING:**

27.1. Tooling produced and utilized under the Procurement Conditions will be utilized exclusively for the production of the Deliverables for R-R to be exclusively delivered to R-R or its specified agents. R-R will hold title to all tooling under the Procurement Conditions. Supplier will be responsible for proper maintenance and storage of the tooling and the associated costs.

27.2. If Supplier fails to pass the FAIR and RESA/FPA process, Supplier agrees that, upon R-R's request, it will immediately relinquish or destroy such tools that were created as a result of the Procurement Conditions. Supplier will be solely responsible for the costs associated with the relinquishing or destruction of such tooling. Failure to pass the FAIR and RESA/FPA process will constitute a material breach of the Procurement Conditions and R-R may exercise its right to terminate pursuant to Clause 7 of the GCP. If R-R requests destruction of the tooling, Supplier must certify as to the destruction of the tooling within thirty (30) days of receiving the request.

**28. SUPPLIER FINANCIAL REPORTS:** If requested by R-R, the Supplier will provide to R-R the most current financial reports: (a) for the Supplier; and (b) for any related company of the Supplier involved in producing, supplying, or financing the Deliverables or any component part of the Deliverables. Financial reports include income statements, balance sheets, cash flow statements and supporting data. R-R's may use financial reports provided under this Clause 28 only to assess the Supplier's ongoing ability to perform its obligations under the Procurement Conditions and for no other purpose, unless the Supplier agrees otherwise in writing.

**29. IMPLEMENTATION OF EXECUTIVE ORDER 14042 "Ensuring Adequate COVID Safety Protocols for Federal Contractors", 9 September 2021:** Supplier shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.

**FOR ROLLS-ROYCE CORPORATION, ROLLS-ROYCE NORTH AMERICA INC., ROLLS-ROYCE CROSSPOINTE LLC, OR ROLLS-ROYCE ENGINE SERVICES – OAKLAND INC., THE FOLLOWING PROVISIONS (30-47) WILL ALSO APPLY:**

**30. GOVERNING LAW:** The Procurement Conditions and any claim, controversy or dispute arising under or related to the Procurement Conditions, the relationship of the parties, or the interpretation and enforcement of the rights and duties of the parties will be governed by the laws of the State of New York without regard to any conflicts of law principles. **Supplier consents to the jurisdiction of New York courts.** Any action arising out of or relating to the Procurement Conditions will be brought in the State of New York. The application of the United Nations Convention for International Sale of Goods dated April 11th 1980, is hereby expressly excluded.

**31. INDEMNIFICATION:** Supplier will indemnify and hold harmless R-R and R-R customers from and against all losses, liabilities, claims or demands whatsoever (including without limitation, all costs, expenses and attorney fees), arising out of or incident to (i) Supplier's breach of the representations, warranties, or covenants set forth herein, (ii) all third party claims brought against RR, and (iii) any personal injury (death) or any damage to or loss or destruction of property, in any manner based upon, occasioned by, or attributable or related to the Deliverables or to any act or omission, negligent or otherwise, in the performance, negligent performance, or non-performance of an Order whether by Supplier, its subcontractors, any employee of Supplier or its sub-contractors, (except where such third party claim, injury to or death of persons or damage to or loss or destruction of property is due solely to the negligence of R-R, its officers, agents or employees).

**32. TOXIC SUBSTANCES, MSDS, INGREDIENTS DISCLOSURE AND SPECIAL WARNINGS AND INSTRUCTIONS:** (a) Supplier warrants that each chemical substance delivered under an Order will, at the time of sale, transfer and delivery, be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to Section 8 (B) of the Toxic Substance Control Act (Public law 94-469). (b) Supplier will submit to R-R prior to and with each

shipment, Material Safety Data Sheets prepared in accordance with the OSHA Hazardous Communication Standard, 29 CFR 1919.1200. (c) If requested by R-R, Supplier will promptly furnish to R-R in such form and detail as R-R may direct: (1) a list of all ingredients in the Deliverables purchased hereunder; (2) the amount of one or more of the ingredients; and (3) information concerning any changes in or additions to such ingredients. If Supplier does not have immediate access to this information, Supplier will use all reasonable efforts to obtain this information and furnish it as requested to R-R as soon as possible after delivery. (d) Prior to and with the shipment of the Deliverables purchased hereunder, Supplier agrees to furnish to R-R sufficient warning and notice in writing (including appropriate labels on the Deliverables, containers and packing) of any hazardous material which is an ingredient or a part of any of the Deliverables, together with such special handling instructions as may be necessary to advise carriers, R-R, and their respective employees of how to exercise that measure of care and precaution which will best prevent bodily injury or property damage in the handling, transportation, processing, use, or disposal of the Deliverables, containers and packing shipped to R-R. (e) Supplier will comply with all laws, orders and regulations pertaining to the use, storage, and disposal of restricted toxic and hazardous materials.

**33. CONFLICT MATERIALS:** If you are supplying a product, i.e. an item other than services, software or data, your delivered product is not to contain any conflict minerals, tantalum, tungsten, tin or gold, that originated in the Democratic Republic of the Congo or any adjoining countries which are defined as Angola, Burundi, Central African Republic, Congo Republic (a different nation than DRC), Rwanda, Sudan, Tanzania, Uganda, and Zambia.

This requirement must be flowed down to all of your sub tier suppliers. If at any stage of manufacture or production it is determined by you or any of your sub tier suppliers that any conflict minerals that were incorporated into the product(s) being delivered to Rolls-Royce, originated in a covered country, you must provide a listing of the conflict mineral(s) and original covered country.

**34. TECHNICAL INFORMATION DISCLOSED:** Any designs, items, components, process drawings, specifications, information, data or computer programs which Supplier discloses to R-R in connection with this Order and which Supplier has not marked with a limited rights legend, in accordance with the applicable clause in DFARS part 252.227, will not be considered proprietary to Supplier or in any way restrict R-R's use of such data.

**35. COMPLIANCE WITH LAWS:** Supplier and R-R will comply with Fair Labor Standards Act of June 30, 1938 (USC 201-209) as amended, Occupational Safety and Health Act, Americans with Disabilities Act, Title VII of the Civil Rights Act, Age Discrimination in Employment Act, Immigration Reform and Controls Act, Family and Medical Leave Act, 29 CFR part 471, appendix A to subpart A, pertaining to employee rights under federal labor laws, and any and all other federal, state and local laws, statutes, ordinances, rules, regulations, codes, orders and/or programs including but not limited to identification and procurement of required permits, certificates, approvals and inspections, labor and employment obligations, affirmative action, wage and hour laws and any other laws which subsequently become applicable under the Procurement Conditions.

**36. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION:** This Order incorporates by reference: (a) all provisions of 41 C.F.R.60-1.4, as amended, pertaining to the equal opportunity clause in government contracts; (b) all provisions of 41 C.F.R.60-300.5(a), as amended, pertaining to affirmative action for veterans; and (c) all provisions of 41 C. F. R. 60-741.5(a), as amended, pertaining to the affirmative action for individuals with disabilities. Supplier and its subcontractor shall abide by the requirements of 41 C.F.R. 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans; Supplier and its subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action covered by prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities. Supplier certifies that it is in compliance with all applicable provisions of 41 C.F.R.60-1, including but not limited to: (a) developing and presently having in full force and effect a written affirmative action compliance program for each of its

establishments as required by 41 C.F.R. 60-1.40, as amended; (b) filing EEO-1 Reports as required by 41 C.F.R. 60-1.7, as amended; and (c) neither maintaining segregated facilities nor permitting its employees to perform services at segregated facilities as prohibited by 41 C.F.R. 60-1.8, as amended. R-R requests that Supplier adopt and implement a policy to extend employment opportunities to qualified applicants and employees on an equal basis regardless of an individual's age, race, color, sex, religion, national origin, disability, or any other legally protected characteristic.

**37. LEGAL NOTICES:** All legal notices must be written in English and will be sent by registered or certified mail to the Parties at the addresses listed on the Order for the attention of the Legal Department or its approved and/or registered agent pursuant to the Secretary of State of qualification or incorporation's records. Legal notices will not be effective if sent by fax. Any notice or communication in connection with this Order will be deemed to be given as follows: (a) if delivered in person, at the time of delivery; and (b) if sent by commercial courier service or registered or certified mail, on the date and at the time of signature of the delivery receipt.

**38. THIRD PARTY LOGISTICS:** All Deliverables covered by the Procurement Conditions are subject to R-R's Third Party Logistics (3PL) program.

**39. INTELLECTUAL PROPERTY:** Supplier acknowledges that R-R is the Original Equipment Manufacturer (OEM) of, and owns all right and title to the technical data provided to Supplier in connection with the Deliverables covered by the Procurement Conditions.

In consideration for the intellectual property provided to Supplier by R-R as well as technical assistance to expedite Supplier qualification, funding for tooling, cost of non-recurring expense and qualification pieces, Supplier agrees that it may sell Deliverables contemplated by the Procurement Conditions (including revisions over time) only to R-R or to third parties authorized in writing by R-R. Any sale of such Deliverables to any third party without express written consent from R-R will constitute a material breach of the Procurement Conditions for which R-R will be entitled to obtain immediate injunctive relief without the necessity of posting bond, in addition to any other remedy available at law or in equity.

All intellectual property, including know-how and technical data such as blueprints, specifications, and shop and inspection routings provided to Supplier in connection with its performance under the Procurement Conditions is confidential and proprietary to Supplier and may not be used by Supplier or disclosed by Supplier to any third party except as necessary for Supplier to perform obligations under the Procurement Conditions or as otherwise approved by R-R in writing.

All copies of such know-how and technical data will be returned to R-R upon the completion, cancellation, or termination or expiration of the Procurement Conditions.

While the United States Government may have rights to some technical data associated with the Deliverables or any engine part covered hereunder, R-R must protect its intellectual property associated with the Deliverables or engine parts. Supplier agrees to promptly notify R-R in the event it receives a Request for Proposal (RFP), Request for Information (RFI), or similar inquiry from a third party about performing the manufacture or remanufacture of any engine parts, Deliverables, components or other elements covered by the Procurement Conditions or related Orders. The R-R buyer and Supplier will meet and confer on whether and how Supplier can respond to the inquiry.

**40. SECURITY INTEREST:** All such material, tools and equipment identified in the Rolls-Royce Tool List (GT6351) that is solely used for production of parts identified in the Procurement Conditions, while in the Supplier's possession, custody and/or control will be held at Supplier's risk and will be kept insured by Supplier at Supplier's expense in an amount equal to the replacement cost with loss payable to R-R.

Supplier grants to R-R a security in all such tools, materials and equipment. The Supplier will, at R-R's request execute and deliver to R-R a brief description of the collateral or such financing statements, amendments and other necessary documents in order to establish and maintain a valid, attached and perfected security interest in the tooling referenced in Clause 27 of the GCP and described in the Rolls-

Royce Tool List (GT6351) within 30 days of receipt of this Order, unless otherwise agreed to in writing by both Parties. Supplier acknowledges that failure to do so constitutes a material breach of the Procurement Conditions. Supplier irrevocably authorizes R-R to file in any jurisdiction any initial financing statements and amendments as required by Article 9 of the Uniform Commercial Code or any equivalent state statute. Supplier agrees to furnish any such information needed to complete these filings to R-R promptly upon request. Supplier further ratifies and affirms its authorization for any financing statements and/or amendments, executed and filed by R-R in any jurisdiction prior to the date of this Order.

In addition to the above, within 30 days of receipt of this Order, Supplier will provide notice to its Secured Lenders of R-R interest in the above referenced tooling. Supplier acknowledges that failure to do so constitutes a material breach of the Procurement Conditions.

In the event of Supplier's bankruptcy or Supplier defaults on any of its realty leases, R-R reserves the right to enter Supplier's premises during normal business hours to remove such tools, materials or equipment that is for the sole use of R-R.

**41. FURTHER ASSURANCES:** Supplier agrees to do such reasonable acts and things and deliver or cause to be delivered such other documents as R-R may deem necessary to establish and maintain a valid security interest in the equipment, materials and tooling referenced in Clause 39 (free of all other liens and claims except permitted encumbrances) to secure the payment and performance of the Procurement Conditions and to defend title to the materials, equipment and tooling referenced in Clause 39 against any person(s) claiming any interest therein adverse to R-R. R-R will execute and file a financing statement in those public offices deemed necessary to protect the security interests of R-R herein granted. If permitted by law, Supplier agrees that a carbon, photographic or other reproduction of a financing statement may be filed as a financing statement.

**42. SET OFF:** In addition to any right of setoff provided by law, all amounts due Supplier will be considered net of indebtedness of Supplier to R-R and its subsidiaries; R-R may deduct any amounts due or to become due from Supplier to R-R and its subsidiaries from any sums due or to become due from R-R to Supplier.

**43. OFF SET TRADE:** Supplier will inform R-R of foreign content in Deliverables, including but not limited to the country of origin and dollar value of material and labor. Offset credits generated for all Deliverables purchased will be available solely for utilization by R-R against any offset obligation resulting from sales made by R-R to the country where such Deliverables were purchased. R-R may also assign such credits generated to an affiliated business entity. Should R-R, for the sake of realizing a sale of R-R Deliverables, have to accept offset trade obligations with customers or countries, Supplier will endeavour to support such activities by undertaking to do its own offset trade, commensurate with the value of the Deliverables in relation to the Deliverable's price, for credit against R-R.

**44. IMPORTER SECURITY FILING:** To comply with Importer Security Filing (ISF) Requirements for ocean shipments to the United States, the following data elements shall be sent via electronic mail to the Rolls-Royce Customs Compliance Office-US a minimum of 3 business days prior to cargo lading: Automated Manifest System (AMS) bill of lading number (lowest level), vessel name, voyage number, cargo lading date, Seller name and address, Buyer name & address, Importer of Record Number, Consignee number, Manufacturer (Supplier) name and address, Ship-to name and address, Container Stuffing location name and address, Consolidator (Stuffer) name and address, and Country of origin, Harmonized Tariff Number, and Rolls-Royce part number of each invoice line item. The ISF pre-alert shall also include invoice(s) for the shipment.

**45. C-TPAT:** Supplier will ensure adherence to the security criteria of the Customs-Trade Partnership Against Terrorism (C-TPAT) program of the United States Customs & Border Protection including but not limited to business partner selection, container & trailer security, physical access controls, personnel security, procedural security, physical security, information technology security, and security training and threat awareness unless otherwise prohibited by law. Detailed C-TPAT minimum security criteria are available at <https://suppliers.rolls-royce.com>. Supplier will provide a security questionnaire, access to

facilities (Clause 6.4), and/or other written verification of adherence to these criteria upon request, including those of sub-tier suppliers or service providers chosen by the Supplier in provision of the Deliverables. Supplier will notify R-R immediately of any breach of security in the supply chain. Supplier acknowledges failure to respond to requests in this Clause and/or subsequent corrective actions will be reasonable grounds for termination of the order in accordance with Clause 7.

**46. LATE DELIVERY:** If delivery is delayed other than for reasons set out in clause 23 (Force Majeure), then without prejudice, and in addition to, R-R's other rights and remedies, the Supplier will pay R-R a late delivery charge in an amount equal to two and a half percent (2.5%) of the invoice amount of the delayed Deliverables for each week of delay, calculated on a daily pro-rata basis, not to exceed an aggregate amount of ten percent (10%) of such invoice amount. R-R and Supplier agree that actual costs suffered by R-R as a result of a late delivery may be difficult to ascertain, uncertain in nature and incapable of exact determination in each instance, and that the late delivery charge is a good faith estimate of the costs suffered by R-R, and not a penalty, resulting from late delivery. The late delivery charge does not include charges that R-R may be liable to a third party for.

**47. TIME IS OF THE ESSENCE:** TIME IS OF THE ESSENCE WITH RESPECT TO THE PERFORMANCE OF THE SUPPLIER'S DELIVERY OBLIGATIONS UNDER THE PROCUREMENT CONDITIONS. R-R and Supplier confirm their intention and agreement that time is of the essence for the Supplier's delivery of conforming Deliverables under the Procurement Conditions, notwithstanding any subsequent modification or extension of any date or time period that is provided for under the Procurement Conditions. R-R and Supplier agree that time is of the essence for the Supplier's delivery of conforming Deliverables under the Procurement Conditions will not be waived or modified by any conduct of the Parties, and may only be modified or waived by the express written agreement of R-R and Supplier.

**FOR ROLLS-ROYCE CORPORATION THE FOLLOWING PROVISIONS (48 and 49) WILL ALSO APPLY:**

**48. DIRECT PAY PERMIT:** Rolls-Royce Corporation has been issued Direct Pay Permit No. 0005631904 by the State of Indiana. Therefore Supplier is not required to collect Indiana sales tax on purchases from Rolls-Royce Corporation. Rolls-Royce Corporation will remit Indiana sales tax directly to the State of Indiana. If this Order specifies labor and material, material costs will have to be stated separately on Supplier's invoice.

#### **49. VENDOR MANAGED INVENTORY**

49.1 If requested by R-R, Supplier agrees to participate in an inventory management and continuous replenishment program ("**VMI Program**") with the third party logistics provider ("**3PL**") at a R-R designated third party logistics facility ("**3PL Facility**") for those Deliverables specified as vendor managed inventory parts in the Order ("**VMI Parts**"). Supplier shall have the VMI Program fully implemented no later than thirty (30) days after the Order effective date or as agreed upon by R-R.

49.2 VMI Parts will be moved from Supplier to the 3PL Facility through the normal R-R inbound shipping procedures and the contractual shipping terms. The 3PL will manage the inbound VMI Parts from Supplier at the 3PL Facility. The 3PL will segregate such VMI Parts from R-R owned inventory so that the VMI Parts are clearly identifiable. In addition, once the VMI Parts have been placed in the custody of the 3PL, such 3PL will also be given the right to control the VMI Parts, along with Supplier and Supplier's agent, until such VMI Parts are Purchased. VMI Parts will be deemed purchased ("**Purchased**") by R-R when either (a) R-R requests one or more VMI Parts, and the 3PL physically releases such VMI Parts to R-R; or (b) the 3PL releases the VMI Parts to R-R in accordance with clause 48.8.

49.3 All rights, title, risk of loss, management and control to VMI Parts, regardless of whether such VMI Parts are stored at a 3PL Facility or at another location, shall remain with the Supplier until the VMI Parts are Purchased. Supplier understands and agrees that upon delivery of VMI Parts to the 3PL Facility, R-R

will not assume any responsibility for or undertake any care, custody or control of the VMI Parts unless and until Purchased.

49.4 All VMI Parts will ship to the 3PL Facility as may be specified by R-R upon written notice to the Supplier. The written notice will reference the Order number and VMI Part number.

49.5 Supplier agrees to hold and maintain the VMI Parts within the minimum and maximum quantities identified in the Order ("**Min/Max Range**" or separately "**Minimum Range**" and "**Maximum Range**").

49.6 Supplier will stock VMI Parts as required for R-R's production or re-sale. R-R will issue normal demand forecast to signal replenishment of VMI Parts to the 3PL Facility. R-R will provide forecast information to Supplier so Supplier can stage VMI Parts for timely delivery to Rolls-Royce. Supplier will deliver VMI Parts to the 3PL Facility according to the electronic procurement marketplace system used by R-R from time to time (including the Exostar system) ("**EPM**").

49.7 The Min/Max Range will be mutually agreed to by the Parties and managed via the 3PL portal. The Min/Max Range will be based on the average consumption from the R-R provided forecasted demand through EPM. The Min Range is set at two (2) weeks of average consumption. The Max Range is set at four (4) weeks of average consumption. Upon written agreement, the Parties may adjust the Min/Max Range for any of the VMI Parts. Supplier will ensure sufficient quantities of VMI Parts are held and maintained within the Min/Max range that meet R-R's forecast demand; and will at all times hold the Min Range for all VMI Parts.

49.8 R-R will regularly review any VMI Part inventory levels at the 3PL Facility for aging:

49.8.1 if any VMI Part's Maximum Range is exceeded due to R-R "schedule arrears" then R-R will follow the "over max, in arrears" process where R-R will Purchase the excess quantity so that the VMI Part inventory is returned to the Max Range;

49.8.2 if the VMI Part inventory has been stocked into the VMI Program for more than forty-five (45) consecutive days at the 3PL Facility, then R-R will consider Purchasing such VMI Part inventory; or

49.8.3 if requested by the Supplier.

49.9 Title, risk of loss, management and control of VMI Parts will at all times remain with the Supplier until the VMI Parts are Purchased by Rolls-Royce. R-R reserves the right to audit any transactional history associated with a specific VMI Part prior to purchasing any excess, obsolete, or non-cancellable/non-returnable ("**NCNR**") materials. Such audit may include, but is not limited to (a) inventory levels prior to Supplier's request to have R-R purchase such excess, obsolete or NCNR materials, (b) Supplier's inventory usage records; or (c) inventory certification materials.

49.10 Each Party will be responsible for all of its tax payments and liabilities relating to the VMI Program. The Supplier will either file its own return with respect to tangible personal property located in Indiana or will make arrangements with 3PL to file such personal property return and assume responsibility for any related property taxes.

49.11 Each Party will be the importer of record with respect to its importation of tangible personal property from outside the United States and shall be responsible for all customs duties, imposts, fees, sanctions, costs or similar charges related to or arising out of the initial importation of such into the United States.

49.12 If the VMI Program is terminated by R-R or Supplier, R-R will have the option to Purchase the VMI Parts at prices being validly charged as of the last day of the VMI Program. The return of any VMI Parts held at a 3PL Facility to the Supplier will be at the expense of the terminating Party.

**FOR ROLLS-ROYCE ENGINE SERVICES – OAKLAND INC. THE FOLLOWING PROVISIONS (50 and 51) WILL ALSO APPLY:**

## **50. CONDITIONS APPLICABLE ONLY FOR US GOVERNMENT ORDERS**

If this Order is placed pursuant to a US Government prime contract or subcontract referenced by a number or otherwise in this Order, then, in addition to those clauses set forth above, the following contract clauses as set forth in the Defense Acquisition Regulation (DAR) and the Armed Services Procurement Regulation (ASPR) are incorporated herein and are applicable hereto by this reference except for those contract clauses which are deemed non-applicable in DAR/ASPR (or by the clauses themselves) based on the dollar value of this Order. Within such DAR and ASPR clauses, the term "Contractor" shall mean the Supplier; the term "Contract" shall mean this Order; and the terms "Government," "Contracting Officer," and equivalent phrases shall mean R-R. All references DAR and ASPR paragraph numbers refer to current paragraphs and revisions in effect as of the date of the respective Government prime contract referenced in this Order with the exception of DAR/ASPR7-104.83 (Cost Accounting Standards), which shall be governed by DAR/ASPR3-1204.2. Copies of DAR and ASPR may be obtained from the Government Printing Office, Washington, D.C. The applicable Patent Rights Clause may be obtained from R-R.

**51. NOTES & INSTRUCTIONS TO SUPPLIER:** In addition to all other obligations in the Order, the Supplier accepts and must comply with all of the following:

51.1. The correct RR Order (P.O.) number must appear on all shipping notices, invoices, packing slips, packages and correspondence.

51.2. A written acknowledgement of the Order must be properly filled in and returned to R-R within ten (10) working days.

51.3. A packing slip must accompany each case or parcel showing the correct R-R Order (P.O.) number and complete description of all contents.

51.4. R-R will not pay for any charges for packing, handling, or cartage unless otherwise expressly agreed by R-R.

51.5. R-R may return any and all Goods shipped not in conformity with the Procurement Conditions at Supplier's expense.

51.6. No substitutions are to be made against this Order without written permission from R-R.

51.7. R-R may return any unauthorized overshipments at the Supplier's expense,

51.8. Any deviation by the Supplier (including its agents) from routing specified on face of Order may result in any associated costs, charges or other liabilities being back charged to Supplier. The Supplier should notify all of its suppliers, subcontractors and agents, if applicable, accordingly.

51.9. Prepaid freight charges, IF FOR R-R's ACCOUNT, must be rendered by invoice with copies of supporting documents attached.