

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 1 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

**FARSOUND AVIATION INC.
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:

Business Day	a day other than a Saturday, Sunday, or other day on which commercial banks in San Antonio, Texas are authorized or required to close.
Carrier	means the entity transporting the Goods.
Civil Application	means used in connection with flights and aircraft used for personal and business purposes, and not military purposes.]
Completion of Delivery	has the meaning set out in clause 7.3.
Conditions	the terms and conditions set out in this document as amended from time to time in accordance with clause 18.3.
Contract	the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
Customer	the person or entity who purchases the Goods from the Supplier.
Defective Good(s)	has the meaning set out in clause 9.1.
Delivery Date	the date specified in the Order Acknowledgement, or, if none is specified, within the Delivery Lead Time.
Delivery Lead Time	the delivery time period specified or agreed by the Supplier in relation to the Goods.
Delivery Location	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 organized by the Customer).

Approved

Feb 11, 2025

Uncontrolled When Printed

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 2 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

Dispute

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.

Force Majeure Event

means an event or circumstances outside of a party's reasonable control, including:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (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;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (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;
- (f) collapse of buildings, fire, explosion or accident;
- (g) any labor or trade dispute, strikes, industrial action or lockouts;
- (h) non-performance by suppliers or subcontractors; or
- (i) interruption or failure of a utility service.

Goods


the goods (or any part of them) set out in the Order.

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 3 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

Goods Information	means the description of the Goods set out on the Order.
Losses	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).
Order	the Customer's order for the Goods, as set out in the Customer's purchase order form, the Customer's written acceptance of the Quotation, or overleaf, as the case may be.
Quotation	means the Supplier's quotation to supply the Goods to the Customer, as set out on the Supplier's quotation document.
Supplier	Farsound Aviation Inc., a Texas corporation.
Supplier Premises	means the Supplier's premises from which the Goods were initially dispatched.
USA	means the United States of America.
Warranty	has the meaning stated in Schedule 1.
Warranty Period	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.

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 4 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 in full the Goods described in a Quotation, 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 Goods described in a 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.

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

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 5 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

2.6 them. They shall not form part of the Contract nor have any contractual force.

2.7 All parts that are sold, shall only be used on a Civil Application.

3. EXPORT CONTROL AND SANCTIONS.

Customer represents and warrants that Customer:

3.1.1 will comply with all applicable laws, regulations, and ordinances and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that are necessary or desirable for Customer to carry out Customer’s obligations under the Contract;

3.1.2 will comply with all export and import laws of all countries involved in the sale of the Goods under the Contract or any resale of the Goods by Customer, including without limitation the United States Export Administration Regulation (“EAR”), the United States International Traffic in Arms Regulations (“ITAR”), the United States Office of Foreign Assets Control Regulations, the United States Foreign Trade Regulations, and European Union and country-specific import and export regulations including EU and/or country-specific sanctions regimes; and

3.1.3 will assume all responsibility for shipments of the Goods requiring any government import clearance.


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 Terms and Conditions.

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 6 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

4.2 In the event of a conflict between the Order and these Terms and 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 SalesUS@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:

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 7 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 organizes 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 efforts to inform the Customer if delivery is delayed, or if the Delivery Lead Time needs to be extended and will use reasonable efforts 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.

Subject to clause 7.9, and Section 13.4, if the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 8 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

- 7.6 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. If the Customer has not paid for the Goods in full the Supplier may set off unpaid sums due to it against sums due to the Customer pursuant to this clause 7.8.
- 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).

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 9 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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

8. INTERNATIONAL DELIVERY

8.1 Unless otherwise agreed in writing between the parties, all Goods with a Delivery Location outside of the USA 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 the USA 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 organized 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

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 10 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 Good's 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 organized 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, willful damage, negligence, or abnormal storage or working conditions; or

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 11 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

9.4.7 the Warranty claim relates to the Goods failing to confirm with their descriptions and 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 These Conditions shall also 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

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 12 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

- 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;
 - 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; and
 - 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

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 13 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Customer;

12.3.2 unless otherwise stated in writing by the Supplier:

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 14 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 the lesser of the rate of 18% per annum or the highest rate permissible under applicable law, calculated daily and compounded monthly.

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 coverage 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 of Supplier arising under

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 15 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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; or

13.3.2 fraud or fraudulent misrepresentation.

13.4 SUBJECT TO SECTION 13.3, SUPPLIER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL OF THE AMOUNTS PAID TO SUPPLIER PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. IN NO EVENT SHALL SUPPLIER OR ANY OF ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, LOSS OF SALES OR BUSINESS, LOSS OF AGREEMENTS OR CONTRACTS, LOSS OF ANTICIPATED SAVINGS, LOSS OF USE OR CORRUPTION OF SOFTWARE, DATA, OR INFORMATION, LOSS OF OR DAMAGE TO GOODWILL, ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER SUPPLIER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

13.5 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 becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors;

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

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 16 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

- 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 expiration of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiration, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiration.
- 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 expiration 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

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 17 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 reasonable efforts 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 the USA; 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 the Unites States of America; 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 the USA; or

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

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 18 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 President 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.

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 administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and Mediation Procedures 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 a Master's Degree in Aeronautical Engineering and accreditation to the

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 19 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

Royal Aeronautical Society (RAeS) (**Technical Arbitrator**);

17.1.2.2 a legal issue, the arbitrator shall have at least ten (10) years of experience as a licensed attorney, a judge, or an arbitrator (**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 If the parties cannot agree as to the arbitrator(s), then the arbitrator(s) shall be selected as described in the Commercial Arbitration Rules and Mediation Procedures;

17.1.4 arbitration shall take place in San Antonio, Texas;

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.

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 20 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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 **Amendments and Modifications.** Except as expressly set out herein, these Terms and Conditions may only be amended or modified in a writing which is signed by the parties (or their authorized representatives) and specifically states that it amends these Terms and Conditions.

18.4 **Waiver.** 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 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:

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 21 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

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

(b) to the Supplier via SalesUS@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 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 9.00 am on the fifth Business Day after posting; or

18.6.2.4 if sent by email (provided no bounce-back signaling 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 9.00 am to 5.00 pm 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 is for the sole benefit of the parties hereto and their respective successors and permitted assigns and

	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 22 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

nothing here, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason 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 laws of the State of Texas without giving effect to any conflict of laws provisions thereof that would result in the application of the laws of a different jurisdiction.

- 18.9 **Jurisdiction.** Any dispute or claim (including non-contractual disputes or claims) arising out of or related to the Contract shall be instituted only in the state or federal courts of the State of Texas, and each party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts.

FARSOUND	FARSOUND TERMS & CONDITIONS	Doc No: TC-005
		Page 23 of 23
Title: US SALES TERMS AND CONDITIONS		Issue: 1

SCHEDULE 1

1. THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

1.1 Warranty:

1.1.1 The Supplier warrants that from Completion of Delivery and for the Warranty Period (as defined below), 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 expiration of 90 days from the date of Completion of Delivery.