

PLASAN
GENERAL TERMS AND CONDITIONS OF PURCHASE OF GOODS AND/OR SERVICES
UNDER A CUSTOMER ACQUISITION PROGRAM
(October 2010 Edition)

1. Definitions

Herein, the following capitalized terms shall have the meanings ascribed to them below:

- 1.1. “**Customer**” any branch of the Customer and its armed forces.
- 1.2. “**Goods**” shall mean any goods ordered in the PO.
- 1.3. “**Plasan**” shall mean Plasan Sasa Ltd. or Plasan North America, Inc. (“PNA”) or Plasan Carbon Composites, Inc., or any other subsidiary or affiliate of Plasan as indicated on the PO.
- 1.4. “**PO**” shall mean the Purchase Order issued by Plasan incorporating these terms by reference.
- 1.5. “**Seller**” shall mean the entity selling the Supplies to Plasan.
- 1.6. “**Services**” shall mean any services ordered in the PO.
- 1.7. “**Supplies**” shall mean the Goods and/or Services ordered in the PO.
- 1.8. “**TDP**” shall mean the Technical Data Package for products, parts and components of Plasan. The TDP shall be made up of drawings, specifications, manufacturing processes and other instructions required for build-to-print work.
- 1.9. “**Terms**” shall mean these General Terms and Conditions of Purchase.

2. General

- 2.1. These Terms together with the PO and any other documents attached to the PO or referenced in the PO or its attachments (the “**PO Documents**”) constitute the sole terms that shall govern Plasan’s purchase of the Supplies from the Seller. No other terms shall be binding on Plasan unless signed by Plasan, even if sent to Plasan after the issue of the PO and even if Plasan has not expressly rejected them.
- 2.2. The Seller shall acknowledge the PO by signing a copy thereof and returning it: (i) where the PO is issued by Plasan Sasa Ltd. - by fax (+972 04 680 9526) or by email (plasan@plasan.com) for the attention of the Purchasing Department; (ii) where the PO is issued by Plasan North America, Inc by fax (+1 802) 445-3099 or by email to Contracts@plasan-na.com for the attention of the Purchasing Department; and (iii) where the PO is issued by Plasan Carbon Composites, Inc. - by fax (+1 802) 442-4978 or by email purchasing@plasancarbon.com.
- 2.3. Until the Seller has acknowledged the PO in this manner, Plasan shall be entitled to withdraw the PO by any means of communication. If no acknowledgment under this Section 2.2 is forthcoming within 10 days, then the Seller shall be deemed to have rejected the PO. Notwithstanding the foregoing, if the Seller did not send acknowledgement in the manner required in this Section 2.2, but the Seller still delivers the Supplies to Plasan, then Plasan shall be entitled, at its discretion, to either (i) purchase the Supplies from the Seller, regarding such delivery as the Seller’s acceptance of the PO and these Terms in full, or (ii) reject the Supplies on the basis that the PO was rejected by the Seller.
- 2.4. Upon acknowledgment of the PO, these Terms, the PO and any PO Documents shall represent the entire Contract between Plasan and the Seller for Plasan’s purchase of the Supplies and the Seller’s sale and delivery of the Supplies to Plasan (referred to hereafter as the “**Contract**”). No change to the Contract will be effected unless made in writing and signed by both Plasan and the Seller, save that Plasan shall be entitled to deviate from the quantities ordered by +/- 3%; such deviation not to affect the price per unit quoted in the PO.
- 2.5. Plasan may issue blanket POs for Supplies. Where blanket POs are issued, no obligation is made by Plasan to purchase the Supplies thereunder, but Plasan shall have the right to activate deliveries under the POs by issuing releases (“**Releases**”) that specify quantities of Supplies and delivery dates. In cases of blanket POs, it is the Release that shall bring the Contract into effect. More than one Release may be issued under blanket POs, provided that the total quantity of Supplies ordered under all Releases for a blanket PO does not exceed the total number of Supplies stated in the blanket PO.
- 2.6. No verbal offer from Plasan will be binding until it is reduced into writing and acknowledged in accordance with these terms.

3. Defense Rating

POs issued referencing these Terms are issued under a U.S. Government acquisition program and the Customer has rated the program with the defense rating noted on the PO. In so far as the US Defense Priorities and Allocations System (DPAS) regulation (15 CFR 700) applies to the Seller, the Seller shall comply with all DPAS requirements flowing from the rating.

4. Manufacture

- 4.1. All Goods shall be manufactured to the highest industry standards and in full compliance with all applicable laws, rules and regulations (including without limitation, all applicable health and safety and environmental laws) and shall meet all requirements of the PO and the PO Documents.
- 4.2. Where the PO is for build-to-print Goods, then the Goods shall conform precisely to the TDP provided by Plasan, which shall generally be provided to the Seller by uploading onto Plasan’s FTPS and providing the Seller with suitable access thereto. Plasan may also have provided or will provide the Seller with training courses and supplemental documentation, instructions and clarifications. All such information and documents shall be part of the PO Documents and shall be followed precisely by the Seller. POs for Goods designed and developed by the Seller according to Plasan design specifications shall, following design freeze and finalization of the TDP, be considered as POs for build-to-print Goods for the purposes of these Terms.
- 4.3. If the Goods are off-the-shelf items, then they shall be manufactured to comply precisely with the product descriptions and any samples provided to Plasan. If the Goods are off-the-shelf items adjusted to meet Plasan requirements, then the Goods shall be manufactured to conform to those requirements.
- 4.4. Unless prior authorized by Plasan in writing, all Goods shall be made only of new material as is defined in FAR 52.211-5.
- 4.5. Plasan may order the Seller at any time to suspend, delay, or interrupt all or any part of its work under the PO by providing written notice to that effect (the “**Stop Work Order**”). Upon receipt of a Stop Work Order, the Seller shall immediately comply with its terms and take all reasonable steps to minimize the incurrance of costs allocable to the work covered by the PO during the period of work stoppage. Within a period of 120 days after a Stop Work Order is delivered to the Seller, Plasan shall either cancel the Stop Work Order, or terminate the Contract for default under Section 22.1 or for convenience under Section 22.2. Once Plasan has cancelled the Stop Work Order or the 120 day or extended period has expired and Plasan did not terminate the Contract, then the Seller shall resume the

stopped work and equitable changes shall be made to the Contract’s delivery schedule and price (if appropriate). Determination and implementation of the equitable changes shall be in accordance with determination of the equitable changes under Section 12 (Change Procedure) below.

5. Provision of Services

Services provided under the PO shall be provided in a timely manner, to the highest industry standards, in accordance with accepted practice or as otherwise stated in PO Documents.

6. Quality Assurance; Inspection and Acceptance; Rejection

- 6.1. The Seller shall have ISO 9000:2000, TS-16949 (for calibration suppliers ISO 17025) or equivalent qualifications and shall furnish Plasan with evidence thereof at Plasan’s request.
- 6.2. The Seller shall have and maintain a quality control and inspection system that is commensurate to the requirements of the FAR clause 52.246-2 - 6 that is quoted in the PO (“**Government**” and “**Contracting Officer**” in the FAR shall also mean “**Plasan**” for the purposes of these Terms and “**Contractor**” shall mean the Seller). Where Goods or part thereof are found to be defective and are repaired, or Services found defective and rectified, details of the defects and the repair or rectification work will be recorded and notified to Plasan.
- 6.3. During performance of the PO, Plasan, the Customer and any prime contractor to the Customer shall have the right to visit premises where the Seller is performing the work in order to inspect performance of the PO. In as far as is reasonably possible, visits will be coordinated in advance with the Seller and will be conducted in a manner that minimizes disturbances to the Seller’s work as much as possible.
- 6.4. Plasan and representatives of the Customer and any prime contractor will have the right, but not the obligation, to attend the Factory Acceptance Tests (FATs). Plasan shall notify the Seller of any intention to exercise this right and the Seller shall coordinate the times and places of the FAT with Plasan. Where representatives of Plasan, the Customer and any prime contractor do attend the FAT, each party’s representatives shall counter sign the COC if the Goods have passed the COC. FATs shall be as described in the PO Documents, but absent any agreed upon format, FATs shall be in line with accepted industry practices.
- 6.5. Seller shall not sell and deliver to Plasan Goods that did not pass the FATs before making any repairs to them required to make them conforming and re-submitting them to the FAT. When Seller delivers Goods to Plasan that had failed the FAT and then undergone repair work, the Seller shall include with the delivery a written report on the original failure, the repair work undertaken and COC for the retaken FAT. Supplies that fail the FAT more than once will not be submitted to Plasan without Plasan’s prior written agreement.
- 6.6. Attendance of Plasan, Customer or prime contractor representatives at FAT and countersigning COCs shall not derogate from the Seller’s obligations hereunder to provide conforming Supplies or from Plasan’s rights arising from delivery of non-conforming or defective Supplies. Notwithstanding counter-signing on any certificates of compliance or payment for Supplies, if the Supplies are found to be defective after delivery and inspection by Plasan, then Plasan shall have the right to either: (i) reject the defective Supplies, returning defective Goods to the Seller at Seller’s sole expense; (ii) demanding defective Services are repeated; (iii) accept the defective Supplies at a suitable reduction in price; or (iii) repair or have repaired the defective Supplies or have the Services provided by an alternate provider, all at the Seller’s sole expense. Plasan’s rights hereunder shall not prejudice any other rights that it may have by reason of the Supplies being defective. In the case of items rejected due to defects or other non-conformances with the order (such as excess amounts, wrong parts, etc.), Plasan shall notify the Seller and the Seller shall have 10 days to arrange for collection of the items, at Seller’s expense. Failure to collect the items shall entitle Plasan to arrange for return thereof to the Seller at Seller’s sole cost.
- 6.7. Where the Goods are delivered to Plasan, then Plasan will perform an incoming inspection and notify the Seller of any defects within 120 days of the Goods arrival at Plasan’s premises. If the Goods are delivered directly to the Customer or prime contractor, then Plasan shall endeavor to obtain the acceptance or rejection of the Goods from the prime contractor or Customer within 120 days of the Goods arrival at the prime contractor or Customer premises (as applicable). However, if the prime contractor or Customer are entitled to reject defective Goods after the 120 day period and exercise such rights, then Plasan shall be entitled to flow the rejection down to the Seller, provided that this is done within 30 days of its receipt of notice of rejection from the prime contractor or Customer.
- 6.8. Plasan shall have the right to reject defective Services within a reasonable time from the provision of those Services that would enable Plasan to determine whether or not the Services were defective.
- 6.9. If Plasan has not rejected an item as aforesaid, then it shall be deemed to have accepted the item. Payment for an item shall not be deemed to be acceptance of that item.
- 6.10. Anytime Seller delivers an item that required rework or repair prior to acceptance, then together with the delivery of the item, Seller shall provide Plasan with full written details of the defects and non-conformances found in the item and the re-work taken on the item. No item that has required re-work more than once before acceptance shall be delivered to Plasan without Plasan’s prior written agreement.

7. Delivery schedules

- 7.1. The dates and quantities set forth in delivery schedules in the PO and Releases are binding and time is of the essence.
- 7.2. In the case of late deliveries that were not caused by a force majeure event or by any delay on the part of Plasan or its prime contractor or the Customer, Plasan shall be entitled, in addition to all other rights that it may have in law, contract and equity, to charge the Seller liquidated damages in an amount equal to 1% of the purchase price of the Supplies in delay per day. It is agreed that these liquidated damages are a fair estimation of the damages that might be caused to Plasan for delays and do not represent punitive penalties or negative performance incentives. Nevertheless, if Plasan can satisfactorily prove that it suffered damages arising from a delay in excess

of the amount of liquidated damages calculated for the delay in accordance with the foregoing formula, then Plasan shall be entitled to receive the full amount of the damages suffered.

- 7.3. Plasan shall exercise its rights under Section 7.2 above by delivering written notice to the Seller setting out the amount claimed and the calculation therefor. The Seller shall make the payment claimed by Plasan within the next 30 days. Following the written demand for payment, Plasan may also obtain the liquidated damages by way of Section 9.5 below.
- 7.4. In the event that the Seller has reason to believe that deliveries will be late, then it shall provide Plasan with immediate notice thereof in order to avail Plasan of the chance to take commercially reasonable action to mitigate the consequences of such delays.

8. Delivery Terms; Packaging

- 8.1. Terms of delivery shall be as stated on the PO or any PO Document. Any Incoterm or Uniform Contract Code term quoted shall refer to the most up-to-date version of that term at the time of the issuance of the PO. Absent any quoted term of the delivery in the Contract, the delivery term shall be FOB destination PNA under UCC for POs issued by PNA and DDP, Plasan for POs issued by Plasan Sasa Ltd. If there are any conflicts between the delivery term stated in the PO and any other term of the Contract, the other term of the Contract will prevail.
- 8.2. Seller shall not make deliveries more than 10 days in advance of the scheduled delivery dates without the prior written approval of Plasan. Plasan shall have the right to charge storage fees for items requiring storage for more than 10 days prior to the delivery date.
- 8.3. Goods shall be packaged, marked and labeled in accordance with any specific instructions contained in the PO Documents and if no instructions are provided, then in accordance with standard industry practices. Seller shall ensure that the transporter is fully informed of any special requirements for transportation (e.g. special temperature requirements, etc.).
- 8.4. Separate invoices are required for each shipment and for all Services rendered under a PO. All deliveries of Supplies shall include invoices in triplicate, packing lists, certificates of compliance (COC) in forms agreed with Plasan, COT, the documents mentioned in Section 9.1 below and any other documentation specified in the PO Documents. All documents shall clearly identify the PO number, item and part numbers and the Supplies to which they relate.
- 8.5. Seller shall identify in its invoice, those Supplies that require an export license or are subject to any applicable regulations, such as ITAR.
- 8.6. Failure to comply with this Section 8 shall entitle Plasan to charge the Seller for any resulting loss, damage and costs.

9. Prices and Payment

- 9.1. On date of shipment, Seller shall fax or email to Plasan (same details as provided in Section 2.2 above) of the invoice, packing list, Bill of Lading or equivalent if transport is not by shipping, Certificate of Compliance (COC) and/or Certificate of Testing (COT) and all documentation required by Plasan in order to release the Goods from Customs and Excise or any other applicable body. Shipments shall include the documents mentioned above with 4 copies of the invoices and original Bill of Lading. Invoices for Services shall be provided on completion of the Services, together with any other documentation required under the PO Documents (time reports, etc.). Plasan shall be entitled to withhold payments for Supplies until proper documentation has been delivered. Where a prime contractor or the Customer collects parts, the signature date on the Bill of Lading, airway bill or other appropriate document shall be considered the date of delivery. All documents shall contain item numbers and part numbers, which correspond to the numbers on the PO.
- 9.2. The prices stated in the PO are the agreed upon and final prices for the Supplies. Unless stated otherwise on the PO, the prices are firm fixed and quoted in United States Dollars.
- 9.3. Unless the PO states otherwise, the prices quoted represent the total fixed cost to Plasan, including without limit all costs of packaging, crating, transport, taxes, duties, charges and other such costs and tariffs imposed thereon, all of which shall be borne by Seller's account. Where any such items are to be charged separately to the price, the invoice shall list them separately. Any minor or incidental parts to the Supplies not specifically indicated in the PO or any attachments thereto, but required for completion of the PO are included in the price.
- 9.4. Unless the PO provides otherwise, payment shall be made 60 days following the later to occur of: (i) issue of a correct invoice; and (ii) delivery of the Supplies or completion of the Services.
- 9.5. Plasan shall be entitled to offset from all payments it must make under the terms of the PO, any amounts owed to it by the Seller.

10. Title and Risk of Loss

Notwithstanding the quoted Incoterm or UCC term, title shall pass to Plasan upon the earlier to occur of payment for the Goods or acceptance of the Goods hereunder and risk of loss shall pass upon the later to occur of (i) receipt of the Goods at Plasan's premises or if delivery is made directly to a prime contractor or to the Customer, then arrival of the Goods at the premises of the prime contractor or Customer, as applicable; and (ii) acceptance of the Goods.

11. Tooling and Material

- 11.1. Subject to any contrary intention expressed in the Contract, the Seller shall furnish at its own expense, keep in good condition, and replace when necessary, all dies, tools, jigs, gauges, fixtures, and associated manufacturing equipment ("Tooling") and raw materials.
- 11.2. Where the PO provides for Plasan to pay the Seller for any Tooling, or where Plasan or the prime contractor or Customer provides any Tooling to the Seller (the "Furnished Tooling"), such Furnished Tooling shall be the exclusive property of the party that paid for or provided it to the Seller (the "Furnishing Party") and the Seller assumes all liability for any loss, damage or shortage to the Furnished Tooling (except where caused by ordinary wear and tear) and for the Seller's failure to return such Furnished Tooling or any part thereof to the Furnishing Party upon any request from that party. The Seller shall not have the right to lien any Furnished Tooling or impose any other form of charge or encumbrance thereon and all Furnished Tooling shall be clearly marked and identified as the property of the Furnishing Party.
- 11.3. The Seller shall perform all maintenance on the Furnished Tooling as is generally required under standard industry practices or as is otherwise instructed in writing by the Furnishing Party.

- 11.4. Following completion of the PO, the Seller shall return the Furnished Tooling to the Furnishing Party, or take any other action that the Furnishing Party instructs.
- 11.5. All Furnished Tooling and any material furnished or paid for by a Furnishing Party ("Furnished Material") shall only be used by the Seller in connection with the PO. Title in all Furnished Material not yet used for the PO shall also remain with the Furnishing Party.
- 11.6. The Seller shall use, keep and maintain all Furnished Material in accordance with the written instructions and directions of the Furnishing Party, or absent such instructions, it shall use, keep and maintain such Furnished Material in accordance with best industry practices. The Seller shall maintain control records with respect to the Furnished Materials, and Plasan and any other Furnishing Party shall be entitled to receive copies thereof on request.
- 11.7. The Seller shall obtain insurance covering the Furnished Tools and Material against theft, loss and damage from reputable insurers on terms approved by Plasan and naming the Furnishing Party as an insured and shall provide Plasan with insurance certificates evidencing the same.
- 11.8. All Furnished Materials shall be returned to the Furnishing Party in the same condition as delivered hereunder, reasonable wear and tear and consumption of material during manufacture excepted.
- 11.9. In cutting materials, the Seller shall minimize wastage of material as much as possible and conform to any specific percentage provided in the PO. Any scrap remaining from Furnished Materials following the Sellers completion of the PO shall be treated in accordance with Furnishing Party's instructions. Absent any specific instructions within a reasonable time following completion or termination of the PO, the Seller shall be entitled to dispose of Furnished Materials as it chooses, subject to applicable laws, rules and regulations.

12. Change Request Procedure; Amendments; Waivers

- 12.1. Plasan reserves the exclusive right at any time to make changes in the Contract to specifications, drawings, designs, other build-to-print instructions, quantity, place of delivery, method of shipment, delivery schedule, required documentation or any other similar matters under the PO. Changes shall be made by delivering to the Seller written request ("Change Request") signed by Plasan's appointed program manager for the purchases under the PO (the "PM"). The Change Request will detail the changes required by Plasan. The Seller shall immediately commence work to put the Change Request into effect and will prepare and send to Plasan within 30 days of Plasan's Change Request a detailed written change proposal setting out its plan for implementing the changes and providing Plasan with details as to how the requested changes will impact on the unchanged parts of the Contract, which may include price, methods of delivery and delivery schedules ("Change Proposal").
- 12.2. Following the Change Proposal, Plasan and the Seller shall exert best efforts to agree on equitable changes to the Contract arising from the Change Request and detailed in the Change Proposal. Any agreement shall be set down in writing as a written amendment to the Contract. Failure to reach agreement on the equitable changes to the Contract shall be a dispute between the Parties and shall be resolved under Section 25 (Disputes, Governing Law) below. However, such dispute process shall not excuse the Seller from continuing to work diligently to deliver in accordance with the changes requested. If the Seller's work is completed, delivered and accepted by Plasan prior to resolution of the dispute, then Plasan shall at least pay to the Seller, pending final resolution of the dispute, any amount that is not in dispute between the parties in relation to the change.
- 12.3. Once all changes have been agreed, they will be formalized by the issue of a revised PO, which shall be acknowledged in the same manner provided in Section 2.2 above.
- 12.4. Except for issuance of a Change Request signed by the PM, no other communication from any person on-behalf of Plasan in which changes may be requested shall be binding on Plasan. If the Seller is not sure who the PM is, then it shall be for the Seller to clarify with Plasan the identity of the PM.
- 12.5. Except as stated in this Section 12, no amendments to the Contract shall be effective unless made in writing and signed by both parties. No waiver shall be binding unless made in writing and signed by the party purporting to make the waiver.
- 12.6. To avoid any doubt, an "equitable change" shall mean a change that is fair and reasonable under the circumstances and which is intended to preserve the positions of the parties prior to the event giving rise to the change and not aimed at putting either party in a better position than it was prior to such an event.

13. Warranty

- 13.1. The Seller hereby warrants to Plasan that all Goods delivered hereunder shall be free and clear of defects in workmanship, materials and, in the case of Goods that are not built-to-print – free from defects in design, for a period of 5 years from the date of acceptance of the Goods as described herein, or any other period stated in the PO or PO Documents (the "Warranty Period"). The warranty provided in this Section 13.1 shall be invalidated where the defects were caused by: (i) misuse of the Goods in contradiction to written instructions provided to Plasan; or (ii) normal wear and tear of the Goods.
- 13.2. Where Goods are found during the Warranty Period to be non-compliant with the warranty stated in Section 13.1 above, Plasan shall notify the Seller in writing thereof, providing the Seller with details of the defects found and the number of Goods affected. Following receipt of the notice of the defects, the Seller shall investigate the cause of the defects and the reasons that the defects were not discovered during the manufacture and testing of the Goods. The Seller shall have 48 hours from receipt of notification of the defects, or any extension thereto agreed by Plasan, to deliver to Plasan a corrective action plan ("CAP") informing Plasan of the cause of the defects, the action it proposes taking to repair or replace the defective items and the timetable for completing the corrective work and any steps it shall take, where possible, to reduce the likelihood of such defects occurring again. If the Seller proposes repairing rather than replacing the defective items, then it shall also detail in writing the proposed repair work. Plasan shall have the right, at its sole discretion, to elect to have the items repaired or replaced by the Seller in accordance with the CAP, or to repair or replace the items itself or have the items repaired or replaced by another party, all at the expense of the Seller. Seller shall also bare the costs of disassembly, transportation and re-installation.
- 13.3. Where a defect occurs in a number of Goods delivered by the Seller to an extent that it is reasonable to determine the defect is systemic in the Goods, or if Plasan

otherwise reasonably decides, in consultation with the prime contractor or the Customer that a defect is systemic in the Goods, then Plasan shall be entitled to apply the warranty obligations under Section 13.2 to all of the Goods to which the systemic defect relates. If the Seller can provide detailed documentary evidence acceptable to Plasan that shows that only Goods in an identifiable and separate group of Goods might be at risk of containing the systemic defect (such as identifiable batch or batches of Goods, or Goods manufactured from a particular source, etc.), then this Section 13.3 shall apply only to that identified group of Goods. If the Supplier cannot provide such documentation to Plasan, then this Section 13.3 shall apply to all Goods delivered under the PO or the series of related POs. The Seller shall also fully compensate Plasan for any costs of recalling products or parts from the prime contractor or Customer and from the field.

- 13.4. The Warranty Period for items repaired or replaced under Sections 13.2 and 13.3 shall be extended by the length of time that it took for Plasan to receive repaired or replaced items from the time that Plasan notified the Seller of the defects in the items.
- 13.5. With respect to Goods not designed by Plasan, Seller warrants that the sale, use or incorporation of the Goods into manufactured products shall not infringe on the intellectual property rights of any other party, unless the same is done in contradiction to express instructions of the Seller notified to Plasan in writing prior to the issuance of the PO. Seller shall fully indemnify and hold harmless Plasan, any prime contractor of Plasan and the Customer from any and all expenses, liability, damages and losses of any kind (including costs and expenses of attorneys' fees) arising from any claims, suits or actions alleging such infringement. In addition to the foregoing, the Seller shall obtain for Plasan, at no additional cost to Plasan, the irrevocable right and license to use the Goods as Plasan had intended and if this is not possible, then Plasan shall have the option to terminate the PO under Section 22 below (termination for breach) or to obtain from the Seller, at an equitably reduced price, alternate or modified goods acceptable to Plasan that are substantially comparable in form, fit and function, but which do not infringe on third party rights. Seller's obligations under this Section 13.3 is not restricted to the Warranty Period.

14. Fitness for Purpose

Unless the Seller has notified Plasan in writing otherwise prior to issue of the PO, the Seller represents that it is aware of the intended use for the Supplies and warrants that the Supplies are fit for the intended purpose. The Seller shall immediately inform Plasan if it determines or becomes aware that the Supplies will not be fit for the particular purpose.

15. After Sales Services; Spare Parts; Obsolete Supplies

- 15.1. Where the Contract requires the Seller to maintain the ability to provide Plasan spare parts, then the Seller shall maintain the ability to provide spare parts for at least the period specified in the Contract, or if no specific period is specified therein, then for a period of at least 15 years following the last delivery of Supplies under the PO (the "After Sales Period"). Unless stated otherwise in the Contract, the price payable by Plasan for spare parts will be fixed for the first 5 years and then will be in accordance with the most up-to-date price list of the Seller, or in accordance with any agreed upon price escalation formula or other mechanism for determining the prices contained in the Contract. Notwithstanding the foregoing, the Seller shall be entitled to close the manufacturing line for the spare parts after the expiry of the Warranty Period, provided that a period of 12 months has elapsed thereafter in which Plasan did not issue any POs for spare parts. The Seller shall provide Plasan with 12 months prior written notice of any intention to close the manufacturing line to allow Plasan to purchase quantities of spare parts that it will require to hold in stock. Thereafter, if Plasan so requests during the After Sales Period, the Seller shall re-establish the manufacturing line to sell to Plasan additional spare parts. In such circumstances FAI's will be required for the first parts to come off the re-established manufacturing line.
- 15.2. Where the Contract requires the Seller to provide after sales maintenance and support services, then the Seller shall maintain the ability to provide such Services for the After-Sales Period. The price payable by Plasan for the After Sales Services will be fixed for the first 5 years and then will be in accordance with the most up-to-date price list of the Seller, or in accordance with any agreed upon price escalation formula or other mechanism for determining the prices contained in the Contract. Should the Seller wish to cease providing the After Sales Services prior to the expiration of the After-Sales Period, it shall notify Plasan thereof in writing. Plasan's approval for cessation of such Services shall be subject to its locating an agreeing terms with a suitable alternate source for the provision of the Services at prices and on other terms substantially similar to those under which the Seller is providing the Services at the time it notifies Plasan of its desire to cease providing such Services. The Seller shall, at its cost, provide Plasan with all assistance required by Plasan to enable Plasan to qualify the alternate source for the provision of the Services for the remainder of the After-Sales Period, including without limit, provision of training, documentation and other appropriate assistance.

16. Indemnification; Insurance

- 16.1. The Seller shall fully indemnify and hold Plasan, its officers, directors, employees, consultants and affiliates (each an "Indemnified Party") harmless from and against all actions, claims (including without limit any third party claims), damages, losses and costs (including without limit attorneys fees and court costs), incurred as a result of: (i) any breach of any of the provisions of these Terms, the PO or any attachments and (iii) any negligent act or omission of the Seller. The Seller shall indemnify the Indemnified Party within 30 days of receiving written request thereof from the Indemnified Party.
- 16.2. Without derogating from the Seller's liability hereunder, the Seller shall purchase and maintain product liability and general public liability insurances with a reputable insurer and under terms standard in the industry providing a minimum cover per claim and an insurance term acceptable to Plasan and reasonable under the circumstances. The policy shall be valid for a period of not less than 5 years following delivery of the Supplies and Plasan shall be named as a first lost payee under the policy. The insurance company shall also be required to agree that it shall not terminate the insurance policy without providing Plasan with 60 days prior written notice thereof. The Seller shall provide Plasan with a copy of the insurance certificate if Plasan so requests.
- 16.3. Where Sellers' employees or representatives will be required to work at Plasan, prime contractor or Customer sites to fulfill the PO, the Seller shall also obtain Employer's Liability Insurance covering at least bodily injury by accident, also on terms approved by Plasan and the provisions of Section 16.2 shall apply thereto.

17. FARs and DFARS

- 17.1. All Federal Acquisition Regulations (FARs) and Defense Federal Regulation Acquisition Regulations Supplement (DFARS) quoted on the face of the PO or otherwise referenced in the Contract are incorporated by reference into these Terms in full, but as may be amended by the PO or other PO Document referencing them and provided further that if there is a conflict between these Terms and any quoted FAR or DFARS, then these Terms will prevail to the extent of the conflict. All references to "Government" and "Contracting Officer" will be deemed to refer to "Plasan"; all references to "Contractor" shall mean the "Seller"; all references to "contract" will be references to the Contract, in each case, unless the context and intention of the clause do not permit for such a meaning.
- 17.2. Notwithstanding the foregoing, if a quoted FAR or DFARS clauses cannot apply to the Contract pursuant to applicable law or regulation, then that FAR or DFARS shall be deemed not to apply to these Terms.

18. Intellectual Property

- 18.1. If the Seller's work under the PO requires it to make any inventive developments, improvements or adjustments of any kind ("Developments") for which Plasan is charged NRE, or part thereof, by the Seller, then all patents, copyrights, design rights, trade secrets, know how and other proprietary rights underlying such Developments and any applications therefor (collectively "Intellectual Property Rights") arising by reason of the Seller's work for the PO (i.e., they were not owned by or licensed to the Seller prior to its work hereunder), are created at Plasan's expense and such Intellectual Property Rights shall be considered as work made for hire and all rights, title and interest therein shall be exclusively owned by Plasan. The Seller shall, at Plasan's expense, sign all documents and take all action necessary in such circumstances to allow Plasan to utilize and protect such Intellectual Property Rights anywhere in the world.
- 18.2. Except as provided in Section 18.1 above, nothing contained herein shall be deemed to transfer any of the Seller's Intellectual Property Rights to Plasan. However, Plasan shall not be restricted from using the Supplies for the reasons that it purchases them.
- 18.3. For POs which by their nature will require the Seller to use proprietary material and information of Plasan, such as without limit, a TDP or purchase specifications (the "Licensed Material"), Plasan hereby grants to the Seller a non-exclusive, non-transferable, revocable, limited license (the "License") to use the Licensed Material provided to the Seller by Plasan, solely for the purpose of fulfilling the Purchase Order (the "Licensed Use"). All use in and to the Licensed Material (which hereafter also refers to the Supplies) not being a Licensed Use is prohibited. Without derogating from the generality of the foregoing, the Subcontractor shall not, directly or indirectly:
- manufacture, sell, supply or otherwise use the Supplies except to fulfill Purchase Orders issued by Plasan;
 - sell the Parts directly to the Customer or the Prime Contractor or to any other party;
 - grant sublicenses under the License, unless first permitted by Plasan in writing;
 - alter, decompile, reverse engineer or break down any of the Licensed Material into its component parts; and
 - develop, make, or have made, anything based in any way on any of the Licensed Material, except as expressly provided for in the Contract.

The License shall automatically terminate upon the first to occur of (i) fulfillment of the Seller's obligations under the PO for which it required use of the Licensed Material; or (ii) termination of the PO for any reason.

- 18.4. Without derogating from any other rights available to Plasan arising from a breach of these Terms and the License, the ownership in Intellectual Property Rights in any Developments with Licensed Material made by the Seller in breach of Section 18.3(v) shall vest automatically and solely in Plasan and Seller shall, at its cost, sign all documents and take all action required by Plasan in order for Plasan to enjoy full ownership in such Developments anywhere in the world.
- 18.5. Except as stated in Section 18.3, nothing herein shall be deemed as granting the Seller any rights in any of Plasan's Intellectual Property Rights. Nothing contained herein shall be deemed to be or put into effect any transfer, assignment or other disposition of Plasan's Intellectual Property Rights.
- 18.6. This Section 18 shall survive any termination of the Contract to the maximum extent possible under applicable law.

19. Confidential Information

- 19.1. The Seller shall keep the PO, all information and material provided by Plasan, any prime contractor or the Customer confidential and safe from unauthorized disclosure or leakage and the Seller shall not disclose any such information or material to any other party or use it in any manner other than as strictly permitted by Plasan. The Seller shall not reverse engineer, decompile or otherwise breakdown any such information or material into component parts.
- 19.2. Any Non-Disclosure Agreement entered into by the Seller and Plasan covering exchanges of information under the PO is hereby incorporated into these Terms by reference.
- 19.3. The Seller shall not release to the public any information regarding its activities for Plasan without Plasan's prior written consent as to the form and content of such releases.
- 19.4. This Section 19 shall survive any termination of the Contract to the maximum extent possible under applicable law.

20. Equitable Remedies

In addition to monetary compensation, injunctive relief and other equitable remedies will also be available for breaches of the Contract, where appropriate. For example and without limit,

injunctive relief shall be available to prevent breaches of Sections 18 (Intellectual Property) and 19 (Confidential Information) above. Temporary equitable relief shall also be available to the parties pending final decision of the courts.

21. Export Compliance

- 21.1. As the PO is issued under a Customer defense acquisition program, any information or material of a technical nature that the Seller receives from Plasan or creates or manufactures in reliance of such material (“Material”) may be subject to U.S. export control laws and regulations, specifically including, but not limited to, the Arms Export Control Act, 22 U.S.C.2751-2794 and the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq, promulgated thereunder. Without limiting the generality of the foregoing, Seller agrees that it will treat all Material it receives, creates or manufactures in connection with the PO as ITAR controlled and act in accordance with the requirements of ITAR. The Seller shall not export or re-export or otherwise transfer such Material outside the U.S. (including to foreign persons in the U.S.) without the authority of an appropriate export license, agreement, or applicable exemption or exception. Without Plasan’s prior written agreement, the Seller shall only allow access of such Material to those of its employees that need to access the Material for the purposes of fulfilling the PO and who are exclusively nationals of the country in which the Seller is based. For the purposes hereof, an employee is considered a national of his country of birth in addition to any other countries in which he has citizenship, even if he does not formally have citizenship of the country of birth and even if he formally gave up citizenship of that country. The Seller shall not transfer any Material to third parties such as Seller’s subcontractors and suppliers, until such time as they have been cleared by Plasan for receipt of such Material. Information shall not be transmitted electronically or put on an internet or intranet site unless the transmission or sites are secure and the information has been encrypted.
- 21.2. If Seller wishes to assert that any item of Material that it receives, creates or manufactures in connection with the PO is not ITAR controlled, then it must bring this to the immediate attention of Plasan, with written details of the reasons for its assertion. The Seller shall continue to treat the Material as ITAR controlled until Plasan notifies it otherwise.
- 21.3. Seller shall provide all information and assistance reasonably required by Plasan in order for Plasan to obtain appropriate export or import licenses or in order for Plasan to enter into appropriate Technical Assistance Agreements, Manufacturing License Agreements or other applicable agreements and licenses required under ITAR.
- 21.4. Seller understands that obtaining US State Department approval for licenses, agreements and amendments thereto takes time. Therefore, if Seller wishes to use new subcontractors or employees that are nationals of countries that are not already authorized by appropriate State Department licenses or agreements, it shall timely inform Plasan thereof so that Plasan shall have sufficient time to work towards obtaining appropriate State Department approval without causing disruption to the timely fulfillment of the PO.
- 21.5. DFAR 252.204-7008 is incorporated herein in full by reference and the Seller shall include it in all subcontracts.

22. Termination

- 22.1. Termination for Default. Plasan, by written notice, may terminate the Contract for default in whole or in part, if Seller is in default of any of the provisions of the Contract, or if it becomes apparent that the Seller has failed to make progress so as to endanger timely deliveries or other material obligations under the Contract. The termination notice shall set out the default and termination will take effect 10 days following delivery of the termination notice if the default complained of remains uncured. However, where the Customer or prime contractor, as appropriate, have terminated their contract or part thereof with Plasan on shorter notice for delays caused by the Seller, then Plasan shall also be entitled to terminate the Contract or corresponding part thereof, even if earlier than the 10 day notice period. Plasan shall be entitled to purchase similar Supplies from alternate sources with respect to the work terminated and Plasan shall be entitled, in addition to any other rights arising from the default, to receive the difference, if any, in the cost of the Supplies and the cost of the alternate supplies. The Seller shall continue all work not terminated by Plasan. Upon termination of the Contract or part thereof for default, Plasan may require the Seller to transfer title and deliver to it, as directed by Plasan, any (1) completed Goods, and (2) partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights that the Seller has specifically produced or acquired for the terminated portion of the Contract. Plasan shall credit the Seller with the reasonable value of such items, up to the lower of the Seller’s costs or the total price of the terminated part of the PO. Upon direction of Plasan, the Seller shall also protect and preserve property in its possession in which Plasan, the prime contractor or Customer has an interest.
- 22.2. Termination for Convenience. Plasan may, by written notice, terminate the Contract without cause, in whole or in part, at any time and such termination shall not constitute a breach of the Contract. In the event of partial termination, the Seller shall continue to diligently perform the parts of the Contract that were not terminated. Upon termination, the Seller shall immediately cease all work on the terminated part of the Contract, cancel all orders for components, supplies and services related to the terminated part of the Contract, return to its stock or stock of its suppliers all re-usable components and supplies and Seller shall take all other commercially reasonable steps to mitigate the costs arising from termination. Plasan shall pay to the Seller a termination for convenience fee equal to actual costs incurred for work completed, plus any additional costs and expenses reasonably incurred by Seller as a direct result of the termination, taking into account the requirement to mitigate the costs and expenses, less any amounts previously paid with respect to the terminated work and credits for components and supplies returned to the Seller’s stock or the stock of its suppliers. In no event shall Plasan be required to pay more in connection with the terminated work than it would have been required to pay had the work not been terminated. The Seller shall provide Plasan, within 60 days of the termination, a termination account setting out the amounts claimed by the Seller in respect of the

termination fee as described in this Section 22.2 and a suitable invoice in respect of the amount claimed. Plasan shall pay all amounts claimed by the Seller in the termination accounts that it does not dispute within 90 days of receipt of the termination accounts. Any amounts claimed by the Seller that Plasan does not agree to shall be determined in accordance with the dispute provision in Section 25 below. All work in-process and other supplies paid for by Plasan under this Section 22.2 shall be the property of Plasan and delivered or disposed of according to Plasan’s instructions.

23. Audit Rights

- 23.1. In order to assess Subcontractor’s compliance with these Terms, the Subcontractor shall permit personnel of Plasan, a prime Contractor and the Customer (and Subcontractor shall obtain a similar right from its permitted subcontractors), reasonable access to all of Subcontractor’s facilities and quality assurance, manufacturing and logistics books and records (the “Records”) for review and also access to the Subcontractor’s business and operations personnel involved in the performance of the Contract.
- 23.2. Where the Customer is entitled to receive cost and pricing data under applicable U.S. law and under the FARs and DFARS and the Customer has requested such data, then the Seller shall provide the Customer with the cost and pricing data. The Seller may provide the sensitive cost and pricing data directly to the Customer without providing Plasan with access thereto. The Seller shall ensure that this provision is included in any subcontracts it enters into.

24. Offset Credit/Cooperation

Unless this PO is issued by PNA to a U.S. Seller or by Plasan Sasa to an Israeli Seller, the PO is issued in direct support of Plasan’s international offset programs. All offset benefit credits resulting from this PO and any lower tier subcontracts are the sole property of Plasan, to be applied to the offset program of its choice. Plasan may transfer the benefit of offset credits to its prime contractors. The Seller agrees to assist Plasan in securing appropriate offset credits from the respective country government authorities.

25. Disputes; Governing Law

- 25.1. The parties agree to exert best efforts to amicably resolve any dispute or claim arising from this PO. If a dispute is not resolved within a reasonable time, then the dispute shall be put in the hands of each party’s Chief Executive Officers (CEOs) and the CEOs shall exert good faith efforts to resolve the dispute amicably through negotiation. If negotiations do not succeed within a reasonable time, either party may seek resolution in the courts, arbitration or mediation in accordance with this Section 25.
- 25.2. These Terms shall be construed and governed by the laws of the State of New York, without reference to its conflicts of laws provisions and the parties submit solely and exclusively to the jurisdiction of the competent courts of the Southern District of New York. However, if the PO is issued by Plasan Sasa and the Seller is also based in Israel, then these Terms shall be construed and governed by the laws of the State of Israel without reference to its conflicts of laws provisions and the parties shall submit solely and exclusively to the jurisdiction of the competent courts of Tel Aviv-Jaffa, Israel to determine any dispute arising herefrom. Nothing in this Section 25.2 shall preclude the parties from agreeing to refer the dispute to mediation or arbitration.

26. Miscellaneous

- 26.1. Neither party shall be liable with respect to the non-performance or partial non-performance of any of its undertakings hereunder where such non-performance or partial non-performance was caused by an event of force majeure, such as, without limitation, earthquakes, floods and other acts of God, general shortages of raw materials, general strikes, wars, terrorism, etc. In the case that a force majeure event prevents delivery of Supplies by more than 30 days past their delivery schedule date, then Plasan shall be entitled to cancel the PO and purchase the Supplies from alternate sources.
- 26.2. These Terms do not create any relationship between the parties other than that of independent contractors and no employee, agency, distributorship or other relationship shall be implied. Nothing hereunder shall be deemed to prevent Plasan from entering into any business relationship of any nature with any other party.
- 26.3. If any part of the Contract is held by any competent court of jurisdiction to be invalid or otherwise unenforceable, then to the extent that such is possible, the invalid part shall be deemed removed herefrom and the validity of the remaining terms and conditions shall not be affected.
- 26.4. The Seller shall not assign any of its rights or obligations hereunder in whole or in part to a third party without Plasan’s prior written approval.
- 26.5. Notices shall be in writing and shall be effectively delivered personally, or by registered mail, or by fax or email (following confirmation of receipt), in the case of Plasan, for the Attention of the Manager of the Purchasing Department: (i) where the PO is issued by Plasan Sasa Ltd. - by fax (+972) (04) 680 9526) or by email to plasan@plasan.com for the attention of the Purchasing Department; and (ii) where the PO is issued by Plasan North America, Inc - by fax (+1 802) 445-3099 or by email to contracts@plasan-na.com for the attention of the Purchasing Department. (iii) where the PO is issued by Plasan Carbon Composites, Inc. - by fax (+1 802) 442-4978 or by email purchasing@plasancarbon.com.
- 26.6. In the case of the Seller, as provided in the PO. Each party may change or add to its contact details by providing the other with written notice thereof.