

Calian Supplier Terms and Conditions

[Access Supplier Waiver Form](#)

1. Calian Ltd., or its affiliate and/or subsidiary, as applicable (“Calian”), requests the supplier (“Seller”) to supply Calian with certain products, goods, articles and materials (the “Goods”) and/or services (the “Services”) (Goods and Services collectively referred to as the “Work”) specified in Calian’s purchase order(s) or such similar document(s) or agreement(s) (each herein referred to as the “Purchase Order”), which hereby incorporates and shall be governed by these terms and conditions (the “Terms and Conditions”) and Seller agrees to provide the Work subject to these Terms and Conditions. The Purchase Order, these Terms and Conditions, and any other documents or agreements attached thereto and/or expressly incorporated herein by Calian shall collectively be referred to as the “Contract”.
2. INSTRUCTIONS
 1. Seller’s invoices shall be e-mailed to at.invoices@calian.com, no later than the day following shipment. Individual invoices shall be issued for all shipments against each Purchase Order. All applicable taxes must be shown as separate line items on all invoices.
 2. Shipments originating outside Canada shall include the original and two copies of a properly certified Canada Customs Invoice(s).
 3. Each shipment shall be accompanied by a packing slip specifying the quantity and description of the shipment, country of origin and bearing Calian’s Purchase Order number. Calian’s count will be conclusive on all shipments not accompanied by packing slip.
 4. Purchase Order must be acknowledged promptly.
3. ACCEPTANCE – Agreement by Seller to furnish the Work hereby ordered, or its furnishing such Work in whole or in part, shall constitute acceptance by Seller of these Terms and Conditions and those contained in the Contract. In the event that the Purchase Order does not state price or delivery, Calian will be bound as to prices or delivery only upon its written approval. Any terms and/or conditions proposed by Seller inconsistent with or in addition to the Terms and Conditions of purchase herein contained shall be void and of no effect, unless specifically agreed to by Calian. Modifications hereof or additions hereto, to be effective must be made in writing and be signed by a duly authorized representative of Calian. These Terms and Conditions, together with such modifications and with such data relating to price and delivery as are accepted in writing by Calian, constitute the entire agreement between the parties. Calian’s rights hereunder shall be in addition to all its rights and remedies at law of equity. Failure of Calian to enforce any of its rights shall not constitute a waiver of such rights or of any other rights.
4. DELIVERY NOTICE OF DELAY – Time is and shall remain of the essence of the Contract, and no acts of Calian including without limitation modifications of the Contract or acceptance of late deliveries, shall constitute waiver of this provision. Calian also reserves the right to refuse, or return at Seller’s risk and expense, shipments made in excess of Calian’s orders or in advance of required schedules, or to defer payment on advance deliveries until scheduled delivery dates. Seller shall notify Calian immediately of any actual or potential labor dispute or any other cause which delays or threatens to delay the timely performance of the Contract.
5. CASH DISCOUNT – The period of time within which Calian may be entitled to take advantage of any cash discount shall be reckoned from the later of the scheduled delivery date or the date of actual receipt of the Goods in Calian’s premises.
6. PACKING AND SHIPPING – All Work to be shipped pursuant to the Contract shall be shipped DDP (Incoterms 2020) Calian’s designated location unless otherwise stated on the Purchase Order. Seller shall be responsible for all costs associated with the shipping and delivery of the Work to Calian, including, but is not limited to, all transportation costs, export and import duties, tariffs, taxes, and any other charges

incurred during the shipment and delivery process. Seller shall ensure that all necessary documentation for the export and import of the Work is properly provided and that all customs clearance procedures are properly completed at Seller's expense. Unless otherwise specified on drawings or specifications, the items shall be packaged to the extent necessary to provide protection from the hazards of contamination or physical damage encountered in handling and shipping. Unless otherwise specified, for shipment at Calian's risk, when rates are based on released, declared, or sales value of the item, the bill of lading will be annotated to show that the shipment is released at the specific maximum value which applies to the lowest rate or rating provided in applicable carriers' tariffs. When applicable tariffs require that the actual value of the shipment be declared on the bill of lading, the actual value of the shipment must be shown. All items shipped in one day from and to a single location must be consolidated on one bill of lading unless otherwise directed. Calian will not be responsible for any charges related to packing, crating, freight, or cartage unless specifically agreed to in writing.

7. TARIFFS AND IMPORT DUTIES – Unless expressly stated otherwise in the Purchase Order, the pricing provided by Seller is firm, fixed, and inclusive of all tariffs, duties, surcharges, and government-imposed fees applicable to the Goods at the time of Purchase Order acceptance. If the applicable shipping terms for a particular Purchase Order are Ex Works (EXW), Calian assumes responsibility for tariffs and duties applicable to the importation of the Goods into the destination country only; Seller shall not impose or pass through any new or increased tariffs, duties, or government surcharges related to the export of the Goods from the country of origin, all of which shall be incurred by and the responsibility of Seller unless such charges are expressly agreed to in writing by Calian prior to shipment.
8. STATIC SENSITIVE DEVICES – All ESD sensitive devices shall be packaged and handled to preclude damage by electrostatic discharge. Packaging shall be clearly marked (MIL-STD-129 LABEL) to indicate that contents are subject to electrostatic damage.
9. INSPECTION
 1. Any Goods found to be defective upon Calian's inspection are to be returned at Seller's expense for either credit or replacement. If Replacement is made, freight must be prepaid. Goods are subject to Calian's inspection both before and after delivery and notwithstanding prior payment. Prepayment shall not constitute acceptance.
 2. All Work during the performance of this Contract shall be open to inspection and test at Seller's plant by authorized representatives of Calian. For the purpose of inspection, Seller shall at all times allow such representatives free access to the plant and its operations hereunder, and at no expense to Calian, shall furnish such supplies, facilities, and services as may be required for the Work.
10. DIES, TOOLS, ETC. – All molds, dies, jigs, etc. paid for by Calian, unless expressly stated on the Purchase Order to the contrary, are the property of Calian, to be delivered to Calian on demand, to be maintained in first class operative condition at Seller's expense, other than a return to Calian. Disposition of same, other than a return to Calian, to be made only on written instructions of Calian. No production using the aforesaid dies, tools, etc. shall be permitted except that authorized by Calian. Seller shall keep all such equipment of Calian insured against loss or damage, fire, theft, etc. of any kind while same are in its possession.
11. MODIFICATION – Calian reserves the right at any time to modify the Contract by making changes in drawings and specifications as to any material and/or work covered by the Contract or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Contract shall be modified in writing accordingly. Any waiver or change to the Contract shall not be valid and binding upon Calian unless in writing and signed by an authorized representative of Calian. From time to time, Calian's Engineering, Technical, Quality Assurance, or other personnel may at the sole option of Calian, give technical advice to, or exchange information with Seller's personnel concerning the Contract or the Work to be furnished herein. Such advice, statements, or information exchange shall not constitute a waiver of Seller's obligations or Calian's rights or be authority for any change in the Contract of the Work specified unless in writing and signed as aforesaid.

12. WARRANTY

1. Defective Work – Seller expressly warrants that all Work covered by the Contract will conform strictly to the specifications, drawings, samples, or other descriptions furnished by Calian or if such specifications, drawings, samples, or other descriptions are not furnished by Calian, those adopted by Calian and will be merchantable, of good workmanship and material, and free from any defect, latent, or otherwise. Seller further warrants that any Services provided by Seller will be provided in a good and workmanlike manner and any Goods purchased by Calian shall be new. This warranty is to extend for a period of one (1) year from the later of the date of actual delivery or acceptance of the Work by Calian, or such longer period as may be stated in the Purchase Order. During the warranty period, Seller will make all necessary adjustments, repairs, and replacements of all Work covered by the Contract. All replacements or repairs to be provided with the aforesaid warranty. The foregoing warranty shall be honored by Seller at Seller's factory. All transportation, shipping, brokerage, demurrage, customs, insurance, or other costs or charges of similar nature to any of the foregoing in respect of delivery to Seller's Factory are the sole responsibility of Seller.
2. Title – Seller warrants to Calian that it can and shall deliver good Title to all Goods required to be delivered under the Contract, free from any claim or encumbrance whatsoever, including but not by way of limitation, those arising out of the performance of Seller's obligations under the Contract.

13. ASSUMPTION OF RISK – Seller assumes the following risks:

1. All risks of loss or damage to all Goods ordered, work in process, materials, and other things until the delivery thereof as herein provided;
2. All risks of loss or damage to third persons and their property until the delivery of all the Goods ordered as herein provided;
3. All risks of loss or damage to any property in the possession of Seller received from or held for the account of Calian, until such property has been delivered to Calian; and,
4. All risks of loss or damage to any of the Goods ordered or part thereof rejected by Calian, from the time of shipment thereof to Seller until redelivery thereof to Calian. All material and equipment furnished by Calian on other than a charge basis are held in trust for Calian and shall at all times remain the property of Calian.

14. DRAWINGS AND SPECIFICATIONS – To the extent any drawings and specifications are furnished by Calian, all the Goods ordered are to be manufactured or supplied in accordance with such drawings and specifications. If Calian furnishes drawings, specifications, or other technical data that are subject to U.S. export control laws or regulations, Seller shall use such controlled technical data solely for the purpose authorized under the applicable export license or authorization obtained by Calian. Seller shall treat all Calian furnished drawings, specifications and technical data as Proprietary Information and shall not use such drawings, specifications and technical data for any other purpose, and shall not disclose, transfer, or provide access to such drawings or technical data to any third party, including Seller's vendors or subcontractors, without Calian's written consent and unless those parties have been expressly included on the applicable export authorization and have executed all required nondisclosure agreements. Seller shall maintain all such controlled technical data in accordance with all applicable export control requirements and shall ensure that no unauthorized access, use, or transfer occurs.

15. PUBLICITY – Seller shall not, without first obtaining the written consent of Calian, in any manner advertise or publish the fact that Seller has contracted to furnish Calian the Work ordered, and for failure to observe this provision Calian shall have the right to cancel the Contract without any further liability hereon.

16. TERMINATION

1. Either party may immediately terminate the Contract upon written notice should the other party become insolvent, enter into bankruptcy, receivership or make a voluntary assignment for the benefit of the creditors, liquidation, dissolution, or any similar actions as a result of debt.
2. Calian may terminate the Contract or any part thereof (a) immediately upon written notice if any Work is not delivered within the time specified in the Contract or, if no time is specified, within a reasonable time, or if the Work ordered that are delivered are not as specified; and/or (b) except as it relates to a situation described in (a), if Seller materially breaches the terms of this Contract and fails to cure such breach within fifteen (15) days from its receipt from Calian of written notice of such breach. Such right shall be in addition to Calian's other legal rights whether set forth in the Contract or not. Seller will deliver to Calian any of the Goods ordered, parts or materials forming part of the Work for which Calian shall make written request at or after termination, and Calian will pay Seller the fair value of any such property so requested and delivered. Without restricting the right on the part of Calian to terminate its obligations under the Contract for default on the part of Seller, Seller shall not be liable to Calian for any damages if Seller's default is due to a cause beyond its control, which could not be reasonably foreseen and circumvented, or due to flood, explosion, fire, strike, act of any Governmental or Municipal authority, quarantine restriction, epidemic, or catastrophe, and Seller has given Calian prompt notice in writing of the existence of such causes.
3. Calian may terminate the Contract or any part thereof for convenience at any time prior to the delivery of the Work by providing Seller with ten (10) days prior written notification of its intent to do so. Upon termination, Seller understands and agrees that the only payments due to it from Calian will be for actual accepted Work rendered up to the date of termination.

17. PROPRIETARY INFORMATION

1. Proprietary Information. By virtue of the Contract, either party ("Discloser") may disclose information to the other party ("Recipient") that is proprietary, non-public and/or confidential to the Discloser. "Proprietary Information" is defined as information of any nature and in any form (including, without limitation, written, magnetic or optical media, and oral and visual disclosures) disclosed by the Discloser, or disclosed by an affiliate, independent contractor, consultant, agent or other representative of the Discloser, to the Recipient in connection with the Contract and for the purpose of the Parties' performance hereunder (the "Authorized Purpose"): (1) that is identified as confidential or proprietary with an appropriate, conspicuous marking; (2) should be reasonably understood to be Proprietary Information based on the nature of the information or circumstances of the disclosure; or (3) in the case of oral or visual disclosures, that is identified as confidential or proprietary at the time of disclosure, and then reduced to writing in summary form (including the date, place and method of disclosure, and sufficient detail to identify the proprietary or confidential information), which is identified as confidential or proprietary with an appropriate, conspicuous marking and delivered to the Recipient within thirty (30) days of such disclosure, except in the event that such information should reasonably have been understood to be proprietary in which case it shall be treated as such hereunder. Additionally, the Parties agree that the Contract (including the annexes and any other attachments hereto) shall be deemed as Proprietary Information hereunder.
2. Exceptions. Proprietary Information shall not include any information disclosed by or on behalf of a party that: (1) is in or enters the public domain, other than by breach of these Terms and Conditions by the Recipient; (2) was known to the Recipient prior to the time of first receipt from the Discloser, and free of any obligation of confidence of the Recipient, as evidenced by written records; (3) lawfully becomes known to the Recipient, from a source other than the Discloser, and free of any obligation of confidence of the Recipient, as evidenced by written records; or (4) was or

is at any time developed by the Recipient independent of and without reference to any Proprietary Information received hereunder, as evidenced by written records.

3. Terms for Handling and Use of Proprietary Information. The Recipient agrees to treat the Proprietary Information as confidential to and as the property of the Discloser and to use a high degree of care (which, in any case, will not be less than the degree of care it uses with respect to its own information of like nature) to prevent disclosure of the Proprietary Information of the Discloser. The Recipient shall implement a rigorous set of procedures to ensure that any such Proprietary Information that the Recipient receives shall not be disclosed to or utilized in any unauthorized manner. Subject to subsection (2) above, for the duration of the Contract and the Work performed thereunder and in perpetuity thereafter, the Recipient shall not disclose Proprietary Information received hereunder to any third party person or entity, and shall restrict disclosure of the Proprietary Information to only those if its directors, officers, employees, professional advisors or subcontractors who require access to the Proprietary Information for carrying out the Authorized Purpose and who are obligated to the Recipient (by an employment agreement or other contractual obligation) to protect the Proprietary Information consistent with the obligations of the Recipient hereunder. The Recipient agrees to advise each person or entity, who will be afforded access to any Proprietary Information of the Discloser, of the Authorized Purpose and that they are obligated to protect and use the Proprietary Information in a manner consistent with the provisions of these Terms and Conditions. Proprietary Information shall not otherwise be disclosed to any third party without the prior written consent of the Discloser. The Recipient shall not use any Proprietary Information for any purpose other than the Authorized Purpose without first obtaining the prior written consent of the Discloser.
4. Legally Compelled Disclosure. Notwithstanding the foregoing, in the event that the Recipient becomes legally compelled, by order of a court of competent jurisdiction, or by order of a governmental agency or legislative body under any written law, regulation or legal order (including disclosures required or reasonably determined as being required under applicable securities laws and regulations), to disclose Proprietary Information of the Discloser, the Recipient shall (to the extent permitted under the circumstances) promptly provide written notice to the Discloser thereof, and reasonably cooperate with the Discloser in contesting the disclosure and in redacting such portions of the information as reasonably required by the Discloser and permitted by applicable law. If disclosure is ultimately required, then the Recipient will disclose only such information as is legally required (as reasonably determined by the Recipient), and will cooperate with the Discloser (at the Discloser's expense) in seeking confidentiality treatment for the information ultimately disclosed.
5. No License. All rights in Proprietary Information are reserved by the Discloser. Other than the rights expressly granted herein, neither the Contract, nor the disclosure of any Proprietary Information hereunder, shall be construed as expressing or implying any other rights, including but not limited to any rights of ownership of such Proprietary Information, or rights to any invention, patent, copyright or other intellectual property right heretofore or hereafter owned, acquired, developed or licensable by the Discloser.
6. Equitable Relief. The Parties acknowledge and agree that Proprietary Information is unique and valuable to a Discloser, and that breach of the confidentiality obligations or use restrictions provided herein may cause substantial, immediate and irreparable damage to the Discloser for which monetary damages alone would not be an adequate remedy. Upon any such breach, or in the event that the Discloser forms a reasonable and good faith belief that such a breach is imminent, the Discloser shall be entitled to seek preliminary and other injunctive relief from any court of competent jurisdiction, with or without notice to the Recipient and without any obligation to post a bond. This remedy shall be in addition to any and all other rights or remedies to which the Discloser may be entitled at law or in equity.

7. Return of Confidential Information. At any time upon request by the Discloser, all Proprietary Information (including all copies, extracts, summaries and other tangible materials containing such information) shall be either returned to the Discloser or destroyed by the Recipient, except for one (1) copy which may be retained for legal archival purposes as well as back-up copies to the extent that routine back-up procedures create copies in its archival computer storage system. Such retained copies shall at all times remain subject to the non-disclosure terms and conditions of this section. In the event of destruction, the Recipient shall, within ten (10) days after such destruction, certify in writing to the Discloser that such destruction has been accomplished. The Recipient shall make no further use of any Proprietary Information.

18. INTELLECTUAL PROPERTY RIGHTS

1. "Intellectual Property" means any and all intellectual property, including without limitation, information, data and technology, ideas, inventions, designs, analyses, know-how, methods and processes, engineering, manufacturing and other documentation, specifications and requirements, software and other works of authorship, and all enhancements and derivatives thereof, whether or not patentable and whether or not reduced to practice, and all associated rights in and to any patents and patent applications, copyrights and trade secrets, and all other intellectual and industrial property rights and all forms of protection of any similar nature which may subsist in any part of the world for the full term of such rights including any extension to the term of such rights.
2. Each Party shall retain all right, title, and interest in and to any Intellectual Property that it owned, controlled or developed prior to the date of the Purchase Order, or that it develops independently of this Contract ("Background IP"). Nothing in the Contract shall be construed as transferring or granting any rights in one party's Background IP to the other party, except as expressly set forth herein.
3. All Intellectual Property created, conceived, or developed by Seller in connection with or arising from the performance of the Work ("Foreground IP") shall be the sole and exclusive property of Calian. Seller hereby assigns and agrees to assign to Calian all rights, title, and interest in and to such Foreground IP and shall execute all documents and take all actions reasonably requested by Calian to perfect such ownership in Calian.
4. To the extent any Seller Background IP is incorporated in or otherwise required for the proper performance of any of the Work hereunder, Seller hereby grants to Calian a perpetual, worldwide, fully paid-up, royalty free, nonexclusive, transferable license to use, copy, maintain, modify, reproduce, enhance and create derivative works of such Seller Background IP to the extent necessary to access, use and sell the Work as determined by Calian.
5. Seller, at its own expense, shall indemnify and hold Calian, its partners, directors, officers, employees, agents, subsidiaries, affiliates, customers, designees or assignees harmless from any loss, damage, liability or expense on account of any claim(s), and shall defend any suit and dispose of any claim(s) or other proceedings, based on an infringement or violation of any third party Intellectual Property arising out of the manufacture of any Goods under the Purchase Order, or the use, lease, sale or importation of any Goods delivered or scheduled to be delivered under the Purchase Order. Seller shall pay any royalties and other costs or expenses, including reasonable attorney's fees, related to the defense, settlement, or disposition of such infringement claim(s) to the extent Calian shall promptly notify Seller in writing of any such infringement claim or action and give Seller authority and any assistance or information reasonably available to Calian for the defense of such claim(s). Any such assistance or information which is furnished by

- Calian at the request of Seller is to be at Seller's expense. Seller shall have no obligation or liability hereunder for infringement to the extent resulting from (1) a combination with or addition to or modification of the Goods by Calian, Calian's customer or any third person after delivery by Seller to the extent such combination or modification is not provided, authorized or recommended by Seller; (2) a design furnished by Calian; (3) combination of the Goods with another deliverable; or (4) a modification of the design of the Goods that has been implemented by Calian pursuant to the Purchase Order.
6. If the manufacture of any Goods in the performance of this Contract, or the use, lease or sale of any Goods delivered or scheduled to be delivered under this Contract, is enjoined as a result of a suit based on any such claim(s) of infringement, Seller shall (1) obtain the right for Calian to continue using and operating the Goods according to the terms of this Contract, or (2) modify such Goods suitably or substitute a suitable item therefor (subject to the technical approval of Calian), which modified or substituted Good is not subject to such injunction, and to extend the provisions of this section thereto. In the event Seller is unable to accomplish either of the foregoing alternatives within six (6) months from the date of the initial notice by Calian, Calian shall have the right (notwithstanding any other provision hereof) to terminate this Contract in whole or in part for the default of Seller, return the enjoined Goods (and any other Work whose utility has been adversely impacted by the loss of use of the enjoined Goods) to Seller, and within thirty (30) days of such return, Seller shall refund any amounts paid for such returned Goods.
7. Seller further agrees to use reasonable efforts to identify and promptly report to Calian any unexpired patents or other proprietary rights of third parties which may be infringed by the manufacture, use, lease, sale or importation of any Goods delivered under this Contract.
19. ASSIGNMENT – The Contract, including any right or obligation under the Contract (including the right to receive moneys due and to become due hereunder), shall not be assigned by Seller without the prior written consent of Calian, and any purported assignment without such consent shall be void. Any transaction constituting a change of control of Seller shall be deemed an assignment requiring Calian's prior written consent.
20. COMPLIANCE WITH LAWS – Each party shall comply with all applicable federal, provincial, state and local laws, regulations, and governmental requirements in connection with its performance under the Contract.
21. ENTIRE AGREEMENT – The Contract, including the Purchase Order, these Terms and Conditions, and any other documents or agreements attached thereto and/or expressly incorporated herein by Calian, sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements or understandings related to the Work, and no representation, promise, inducement or statement of intention has been made by either party which is not embodied herein. Calian will not be bound by any terms or conditions printed or referenced on any quote, invoice, memorandum, or other written communication supplied by Seller unless Calian has expressly acknowledged the other terms in writing and, thereafter, expressly and explicitly accepted such other terms in writing as superseding the applicable terms of the Contract.
22. ORDER OF PRECEDENCE - In the event of any ambiguity and/or inconsistency between the Terms and Conditions, Purchase Order or other documents incorporated by reference, the following descending order of precedence shall control: (1) Calian's end-customer's terms and conditions (if incorporated herein) (2) these Terms and Conditions; (3) the Purchase Order; (4) drawings and other documents attached hereto or incorporated by reference.
23. SURVIVAL – Any terms and conditions herein that by their nature or otherwise reasonably should survive expiration or termination of the Contract shall so survive.

24. **INSURANCE** – Before commencing the Work, unless otherwise agreed to by Calian in writing, Seller shall provide to Calian a certificate of insurance showing that the following minimum coverages are in effect with an Insurer with an A.M. Best Rating of A- VII or better:
1. Commercial General Liability insurance, including premises, operations, products, and completed operations liability and personal and advertising injury liability and contractual liability coverage for damages to any persons or property with a minimum combined single limit of liability for bodily injury and property damage of \$5,000,000 per occurrence and \$5,000,000 aggregate.
 2. Automobile liability insurance covering the operation and use of any owned, hired, or non-owned automobiles with a minimum limit of liability each accident of \$1,000,000 for bodily injury and property damage.
 3. Workers Compensation and Employers Liability insurance for occupational injury, illness or disease or other similar social insurance in accordance with the laws of the province exercising jurisdiction over the employee(s) and Employers Liability insurance at a minimum limit of \$1,000,000.
 4. Errors and Omissions/Professional Liability Insurance covering the liability for financial loss due to error, omission, negligent acts, unauthorized access, unauthorized use, breach of duty, virus transmission and machine malfunction in the performance of services or the failure of technology products to perform as intended with a minimum limit of \$5,000,000 per occurrence and in the aggregate.
- The foregoing insurance coverages shall be endorsed to name Calian, and its affiliates and subsidiaries as additional insureds and shall be primary and non-contributing with respect to any other insurance or self-insurance that Calian may maintain. Upon request by Calian, Seller shall cause its insurer to issue certificates of insurance evidencing the required coverages, confirm policy endorsements required under the Agreement are maintained in force and that not less than thirty (30) days written notice shall be given to Calian prior to any material modification, cancellation or non-renewal of the policies.
25. **INDEMNITY** – Seller agrees to indemnify and hold Calian harmless from any and all claims and liability (including expenses) for injuries to persons (including death) or damage to or destruction of property caused by or resulting from the negligence or faulty performance of Seller, its agents, or employees in the performance of the Contract.
26. **LIMITATION OF LIABILITY** – In no event shall Calian be liable for any indirect, special, exemplary, consequential, or punitive damages, such as lost revenue, loss of profits, savings, or other indirect or contingent event-based economic loss arising out of or in connection with the Contract or the Work. Except for Calian's payment obligations, Calian's aggregate liability to Seller for damages from any and all claims or causes whatsoever, and regardless of the form of any such action(s), that arise from or relate to the Contract or the Work (collectively, "Claims"), whether in contract, tort, negligence and otherwise, shall be limited solely to the amount of Seller's actual and direct damages, not to exceed the lesser of (i) the total amounts paid and amounts accrued but not yet paid by Calian to Seller for the Work upon which the applicable Claim is based during the twelve (12) month period immediately prior to the date on which the cause of action arose giving rise the applicable Claim; and (ii) \$250,000 CAD.
27. **WAIVER AND SEPARABILITY** – Failure to exercise any right under this contract in any one or more instances shall not constitute a waiver of such rights in any other instance. The sections of this contract shall be construed separately and invalidity of unenforceability of one section shall not affect the validity of enforceability of any other section.
28. **GOVERNMENT CONTRACTS** – Where Work to be delivered under the Contract is required by Calian to fill any contracts or subcontracts for the ultimate account of a governmental authority or any agency thereof, the terms and conditions of such contracts or subcontracts with respect to the rights of termination of the parties thereto shall, at Calian's option, extend and apply to the Contract.

29. **GOVERNING LAWS** – The Contract shall be interpreted and construed, and the legal relations created herein, shall be determined, in accordance with the laws of the Province of Ontario, Canada.
30. **NOTICES** – All notices hereunder shall be in writing and addressed to the other party at such address that may be designated or provided by the parties from time to time. Notices sent in accordance with this section will be given upon (i) personal delivery, in which case notice shall be deemed given on the day of such hand delivery, or (ii) by overnight courier, in which case notice shall be deemed given one (1) business day after deposit with a recognized courier (or three (3) business days for international deliveries), or (iii) by electronic mail, in which case notice shall be deemed given when sent if sent during the addressee's normal business hours, and on the next business day if sent after the addressee's normal business hours.
31. **SUBSTITUTIONS** – No Substitution of material or processes from those called upon in the Contract shall occur without Prior written approval from Calian.

32. **QUALITY ASSURANCE REQUIREMENTS**

1. **Unauthorized Repairs:** Seller shall not repair any damaged Good, nor any found to be faulty during manufacturing or that fails to meet Calian specification/drawing requirements, without Calian's written approval.
2. **Change in Approval, Drawing, Processes, Materials, or Procedures:** Seller shall not change any drawing, process, material (including sub-tier supplier parts), or procedure without prior Calian written approval, if such drawing, process, material, or procedure was previously approved by Calian as provided for in the procurement document. Seller shall not change any process, material or procedure from that used to qualify any Good or which was used by Seller to become a qualified source for Calian specification/drawing, without Calian written approval.
3. **Re-submittal of Rejected Items:** Any Good rejected by Calian and subsequently resubmitted to Calian shall be clearly identified as a resubmitted Good, indicating procurement document number and Calian reject document number in Seller's certificate of conformance.
4. **Notification of Facility Change:** Seller shall not use nor relocate any production, manufacturing, and/or processing facilities to differ from previous approval by Calian, during performance of Work specified in the procurement document, without previously notifying Calian and affording Calian an opportunity to examine such facilities for compliance with procurement quality requirements.
5. **Change of Test Facility:** Seller shall not change a test facility nor use another test facility to meet specification/drawing requirements without prior Calian written approval, if a specific test facility was previously approved by the Calian as provided for in the applicable procurement document.
6. **Responsibility For Conformance:** Neither surveillance, inspection and/or test made by Calian, its customer or applicable governmental authority at either Seller's or Calian's facility, nor Seller's compliance with all applicable procurement quality requirements, shall relieve Seller of the responsibility to furnish Goods that conforms to the requirements of the applicable procurement document.

Seller shall control sub-tier supplier procurements to the extent necessary to ensure quality requirements specified in Calian's procurement document are satisfied. Quality requirements may include, but are not limited to, the following: sub-tier supplier pre-award survey/evaluations, periodic auditing of supplier, implementing a sub-tier supplier rating system, ensuring adequate review of procurement documentation prior to procurements, controlling procurement of critical items for Seller product, inspection of procured items to documented procedures, and control of non-conforming material, including corrective action.

7. Documentation: Calian may refuse to accept Goods if Seller fails to submit certifications, documentation, test data or reports specified by the applicable procurement document.
8. Corrective Action Request: When a quality defect exists with any Good, Calian may forward a "Corrective Action Request" to Seller, requiring timely response (as stated on the Corrective Action Request), that shall include the following information: containment action, analysis of the cause of the problem, statement of the action taken to prevent recurrence and the effectiveness of the actions taken.
9. Measuring and Test Equipment: Seller shall be responsible for validating the accuracy and stability of tools, gauges and test equipment used to demonstrate that any Good conforms to the requirements specified by Calian's procurement document. Documented schedules shall be maintained to provide for periodic calibration to adequate standards. Objective evidence of calibrations shall be recorded and made available for Calian review upon request.
10. Nonconforming Material: Seller is responsible to inform Calian of any Good that does not conform to requirements of the applicable procurement documentation. Any decision to accept any nonconformance (variance from Calian drawings and specifications), detected at Seller facilities, shall be made by Calian, at its discretion, unless otherwise specified by the procurement document. Shipment of any non-conforming Goods shall be accompanied by the document evidencing Calian's approval thereof. If any non-conforming Good has already been shipped (inadvertently or otherwise), Seller must inform Calian within 3 business days from learning/ having knowledge of the shipment. Seller shall provide for identification, control and segregation of non-conforming Goods detected at Seller's facilities.
11. Inspection Records - Seller shall maintain records of all inspections and tests performed on any item delivered to Calian. These records shall identify any non-conformance and shall be made available for Calian review.
12. Sample Inspection - Seller may use sample inspection plans when tests are destructive, or when the records or inherent characteristics of the product indicate that a reduction in inspection/testing can be achieved without jeopardizing product quality. Sample inspection shall be in accordance with the applicable Calian specification. When not specified by Calian, military or a recognized standard sampling plan may be used. Calian approval is required for sample inspection plans other than military or a recognized standard prior to their implementation. Products inspected by a sampling plan must use acceptance number Zero; i.e. accept on Zero defects & reject on ≥ 1 defect.
13. Control of Records - The Seller shall maintain records that provide evidence of product conformity to requirements a minimum of 7 years after delivery or according to procurement documentation. These records shall be made available to Calian upon request.

33. COUNTERFEIT PARTS PREVENTION:

Definitions:

1. Authentic - shall mean (A) genuine; (B) purchased from the Original Equipment Manufacturer
2. ("OEM"), Original Component Manufacturer ("OCM") or through the OEM's/OCM's authorized dealers; and (C) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the material.
3. Authorized Dealer - A dealer or distributor that purchases directly from the OEM or OCM and is authorized or franchised by the OEM or OCM to sell or distribute the OEM's/OCM's products.

4. Counterfeit Part – A part that is an unauthorized copy or substitute that has been identified, marked, and/or altered by a source other than the item's legally authorized source and has been misrepresented to be an authorized part of the legally authorized source. This definition includes used parts represented as new parts.
5. Original Component Manufacturer (OCM), Original Equipment Manufacturer (OEM). – An organization that designs and/or engineers a part or equipment and is pursuing or has obtained the intellectual property rights to that part or equipment.
6. Non-Franchised Source – Any source that is not authorized by the OEM or OCM to sell its product lines. Non-franchised sources may also be referred to as brokers or independent distributors.
7. Suspect Counterfeit Part – A part that Calian becomes aware, or has reason to suspect, meets the definition of “counterfeit part”, as defined above. For purposes of this document, the terms “counterfeit part” and “suspect counterfeit part” will be used interchangeably. If any individual part from a lot is determined to be counterfeit or suspect counterfeit, the entire lot of parts will be considered to be suspect counterfeit.

Counterfeit Parts Prevention Terms and Conditions:

8. Seller represents and warrants that only new and authentic materials are used in products required to be delivered to Calian and that the Work delivered contains no Counterfeit Parts. No material, part, or component other than a new and authentic part is to be used unless approved in advance in writing by Calian. To further mitigate the possibility of the inadvertent use of Counterfeit Parts, Seller shall only purchase authentic parts/components directly from the Original Equipment Manufacturers (“OEMs”), Original Component Manufacturers (“OCMs”) or through the OEM's/OCM's authorized dealers. Seller represents and warrants to Calian that all parts/components delivered under this Contract are traceable back to the OEM/OCM. Seller must maintain and make available to Calian, at Calian's request, OEM/OCM documentation that authenticates traceability of the parts/components to the applicable OEM/OCM. Purchase of parts/components from Non Franchised Sources is not authorized unless first approved in writing by Calian. Seller must present complete and compelling support for its request and include in its request all actions to ensure the parts/components thus procured are legitimate parts. Calian's approval of Seller request(s) does not relieve Seller's responsibility to comply with all Contract requirements, including the representations and warranties in this paragraph.
9. Seller shall maintain a documented system (policy, procedure, or other documented approach) that provides for prior notification and Calian approval before parts/components are procured from sources other than OEMs/OCMs or the OEM's/OCM's authorized dealers. Seller shall provide copies of such documentation for its system for Calian's inspection upon Calian's request.
10. Seller, if supplies electronic part(s), and/or component(s), which include software as applicable, must maintain a counterfeit detection process that complies with SAE standard AS5553, Counterfeit Electronic Parts, Avoidance, Detection, Mitigation, and Disposition.
11. If it is determined that counterfeit parts or suspect counterfeit parts were delivered to Calian by Seller, the suspect counterfeit parts will not be returned. Calian reserves the right to quarantine any and all suspect counterfeit parts it receives and to notify the Government Industry Data Exchange Program (GIDEP) and other relevant government agencies. Seller shall promptly reimburse Calian for the full cost of the suspect counterfeit parts and Seller assumes responsibility and liability for all costs associated with the delivery of suspect counterfeit parts, including, but not limited to, costs for identification, testing, and any corrective action required to remove and replace the suspect counterfeit parts. The remedies in this section shall apply regardless of whether the warranty period or guarantee period has ended, and are in addition to any remedies available at law or in equity.

12. If the procurement of materials is pursuant to, or in support of, a contract, subcontract, or task order for delivery of goods or services to the U.S. Government, the making of a materially false, fictitious, or fraudulent statement, representation or claim or the falsification or concealment of a material fact in connection with this Contract may be punishable, as a Federal felony, by up to five years' imprisonment and/or substantial monetary fines. In addition, trafficking in counterfeit goods or services, to include military goods or services, constitutes a Federal felony offense, punishable by up to life imprisonment and a fine of fifteen million dollars.
13. Seller shall flow the requirements of this section ("COUNTERFEIT PARTS PREVENTION") to its subcontractors and subcontracts at any tier for the performance of this Contract.
34. **CONFLICT MINERALS DISCLOSURE** – Seller acknowledges the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") , and in particular its Minerals provision (Section 1502), and Seller also recognizes the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC countries"). Accordingly, Seller commits to comply with Section 1502 of Dodd-Frank and its implementing regulations. In particular, Seller commits to have in place supply chain policies and processes to undertake:
 1. a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides to Calian;
 2. due diligence of its supply chain, as necessary, to determine if Conflict Minerals are sourced from the DRC countries directly or indirectly;
 3. the conduct of any risk assessment and mitigation actions necessary to implement these country of origin inquiry and due diligence procedures; and, timely disclosure to Calian on all its Contracts/subcontracts for products containing "conflict minerals" that are delivered during the current calendar year.

Seller shall provide, upon request from Calian, the status of the supply chain policies and processes to meet the above requirements. Seller shall take all other measures as are necessary to comply with the Act and its implementing regulations, as they may be amended over time.
35. **TRADE COMPLIANCE** – Products, services, and technical data provided by Calian may be incorporated into items that are subsequently exported, reexported, or transferred outside of Canada and/or the United States. All such exports from Calian are subject to Canadian export control regulations administered by Global Affairs Canada (GAC) under the Canadian Export Control List (ECL). Depending on the origin, classification, and technical characteristics of the items, exports may also be subject to U.S. export control regulations, including the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations ("ITAR"). The EAR, including the Commerce Control List (CCL), are administered by the U.S. Department of Commerce, Bureau of Industry and Security (BIS). Guidance regarding the applicability of the EAR to reexports or transfers of U.S.-origin items, or foreign-made items subject to the EAR, is provided in the "Reexports and Offshore Transactions" section of the BIS website. The ITAR, including the U.S. Munitions List (USML), are administered by the U.S. Department of State, Directorate of Defense Trade Controls (DDTC).

Seller certifies that all exports to destinations outside of Canada and the United States will be compliant with:

1. All applicable Canadian export control regulations, including without limitation those administered by Global Affairs Canada (GAC) and defined by the Canadian Export Control List (ECL).
2. All applicable U.S. export control regulations, including without limitation:
 - (a) The Export Administration Regulations (EAR) and the Commerce Control List (CCL) administered by the U.S. Department of Commerce, Bureau of Industry and Security (BIS).

- (b) The International Traffic in Arms Regulations (ITAR) and the U.S. Munitions List (USML) administered by the U.S. Department of State, Directorate of Defense Trade Controls (DDTC).

Seller shall not export, reexport, transfer, disclose, or provide access to any controlled Goods, software, or technical data received from Calian except as expressly permitted under applicable export authorizations and regulations. Seller shall ensure that no controlled items or technical data are provided to any third party, including subcontractors, without all required licenses, approvals, and nondisclosure agreements.

36. FARS AND DFARS COMPLIANCE – COVERED DEFENSE TELECOMMUNICATIONS – Seller represents and warrants that it will not supply Calian with any covered defense telecommunications equipment or services in the performance of the Contract, as outlined in FARS 52.204.24/25/26 and/or DFARS 252.204-7016/17/18.
37. COMPLIANCE WITH OFFSET COMMITMENTS – The Contract is in support of Calian’s current and future offset commitments in Seller’s country. Seller commits that, to the extent possible taking into account the nature and scope of the procurement, all Work ordered by Calian shall be manufactured and/or performed in Seller’s country of primary residence and/or where its head office is located, unless otherwise agreed by the parties in writing. Seller agrees that any offset credits associated with the Work become the property of Calian, to be applied to its offset obligation of its choice. Seller agrees to provide Calian promptly, upon request, with all relevant details supporting all performance of the Contract in order to assist Calian for offset reporting purposes. Seller further agrees to support Calian, as reasonably requested by Calian, to negotiate a factor with the relevant government officials to be applied to increase the value credited as offset if technology, investment and/or significant added value is transferred with the Work.
38. CERTIFICATE OF CONFORMANCE – Where required in the Purchase Order, Seller shall provide a valid Certificate of Conformance (“CoC”) with each shipment of Goods delivered thereunder. The CoC shall include (1) the part number and revision (if applicable), (2) country of origin, (3) lot or batch number, and (4) date code (if applicable), and shall confirm that the delivered items conform to all applicable specifications, drawings, standards, and contractual requirements of the Purchase Order. The CoC shall include at minimum: Seller’s name, Seller’s Address, location where manufactured, tested, supplied from. The CoC must be signed by an authorized representative of Seller and shall accompany the shipment of the Goods or be provided in accordance with the delivery instructions specified in the Contract. Failure to provide a required CoC may result in rejection of the shipment and any associated costs shall be borne by Seller.
39. COMPLIANCE WITH SUPPLIER CODE OF CONDUCT – Calian is committed to conducting business in accordance with unwavering ethical standards and will not condone any illegal, inappropriate or unethical acts for any reason, including without limitation, as it relates to applicable laws, regulations and standards regarding anti-trafficking and modern slavery, anti-corruption, employment, health and safety and the environment. Calian has adopted a Supplier Code of Conduct, a copy of which can be found at the following link: <https://investors.calian.com/governance/>, that outlines the expected values and behaviours for all of its suppliers, including their employees, agents or subcontractors. Seller acknowledges and agrees that it has reviewed and shall, at all times, comply with Calian’s Supplier Code of Conduct.
40. AUDIT RIGHTS – Calian, its customers, authorized representatives and applicable governmental authorities shall have the right during Seller’s performance of the Work and for five (5) years thereafter, upon reasonable prior notice and during normal business hours, to access Seller’s facilities, personnel, and relevant records to verify Seller’s compliance with its obligations under the Contract. Such access shall include, but not be limited to, inspection of production processes, quality control systems, and documentation relating to the Work. Seller shall cooperate fully with any such audit and shall promptly address any deficiencies identified. Calian shall bear its own costs of conducting the audit unless the audit reveals material non-compliance by Seller, in which case Seller shall reimburse Calian for reasonable audit costs.

41. FLOW-DOWN OF TERMS AND CONDITIONS – Seller shall ensure that these Terms and Conditions are, to the extent applicable, flowed down to all of its sub-suppliers, subcontractors, and other third parties engaged by Seller in the performance of its obligations under the Contract. Seller shall remain fully responsible for the compliance of such sub-suppliers and subcontractors with these Terms and Conditions and shall take all necessary steps to enforce such compliance. When the Purchase Order specifies export-related restrictions such as “No ITAR,” “No U.S.-origin content,” “No controlled technical data,” or any similar limitation, Seller shall clearly and explicitly identify these restrictions as standalone flow-down requirements to its sub-suppliers and subcontractors. Such restrictions shall not be combined with or embedded within other general flow-down language. Seller shall ensure that all sub-suppliers and subcontractors receive these restrictions in a separate, prominently labeled section and acknowledge them prior to performing any work.
42. COMPLIANCE WITH END-CUSTOMER TERMS AND CONDITIONS – Seller acknowledges and agrees that it shall be bound by, and, to the extent applicable, shall flow down to its sub-suppliers and subcontractors, Calian’s end-customer’s terms and conditions as may be attached to, referenced in, or otherwise incorporated into the Contract from time to time. Seller further agrees to perform its obligations in a manner consistent with such terms and conditions and shall ensure that its performance does not cause Calian to breach any of its obligations to its end-customer.
43. CYBERSECURITY – Seller shall maintain an information security and cybersecurity program appropriate to the nature of the Work and the sensitivity, classification, confidentiality, integrity, and availability requirements of any Calian, Calian customer or third-party information, systems, networks, or assets to which Seller has access. Such program shall include administrative, technical, and physical safeguards designed to protect against unauthorized access, use, disclosure, modification, destruction, loss, or compromise of such information and assets and shall be consistent with applicable laws, regulations, Calian customer requirements, contractual obligations, and generally accepted industry practices. This requirement aligns with Calian's security governance, protection and customer contract obligations.

Seller shall promptly notify Calian in writing of any actual or suspected cybersecurity incident, security breach, unauthorized access, ransomware event, malware event, compromise, or other event that affects or may affect Calian or Calian customer information, systems, services, operations, or Seller's ability to perform the Work. Such notification shall be made without undue delay and in no event later than forty-eight (48) hours after Seller becomes aware of such event.

Seller shall preserve relevant evidence, maintain appropriate records, and fully cooperate with Calian, its customers, auditors, regulators, insurers, and designated representatives in the investigation, assessment, containment, remediation, recovery, forensic analysis, reporting, and mitigation of any such cybersecurity event.

If Seller has access to any Calian, Calian customer or third-party information, systems, networks, or assets under the Contract shall implement and maintain reasonable security controls, including the following as applicable:

1. access controls based on least privilege;
2. multi-factor authentication for privileged or remote access;
3. encryption of sensitive information in transit and at rest;
4. endpoint protection and malware protection;
5. vulnerability management and timely application of security updates;
6. security logging, monitoring, and incident response capabilities; and
7. personnel security awareness and cybersecurity training.

Seller shall ensure that all subcontractors, affiliates, consultants, agents, and lower-tier suppliers involved in the performance of the Work are bound by written cybersecurity, privacy, confidentiality, and information protection obligations that are no less protective than those contained herein. Seller shall remain fully responsible and liable for the acts, omissions, and compliance of such parties.

Where the Work involves customer-regulated, controlled, classified, confidential, proprietary, personal, Controlled Goods, CUI, ITAR, export-controlled, or otherwise restricted information, Seller shall comply with all applicable contractual, legal, regulatory, customer, and jurisdictional requirements governing such information and shall ensure that corresponding obligations are flowed down to all subcontractors and suppliers.

Upon Calian's reasonable request, Seller shall provide evidence of its cybersecurity controls, certifications, assessments, audits, policies, or remediation activities sufficient to demonstrate compliance with the requirements of this section, subject to reasonable confidentiality restrictions.

Seller shall promptly notify Calian of any circumstance that materially impairs or may reasonably be expected to impair Seller's ability to comply with its cybersecurity obligations or to perform the Work securely.

Seller shall, at its own expense, promptly take all reasonable corrective actions necessary to remediate cybersecurity deficiencies, vulnerabilities, or incidents attributable to Seller or its subcontractors.

Any cybersecurity, privacy, data protection, customer, contractual, regulatory, export-control, security clearance, Canada Controlled Goods Program, CMMC, NIST, ISO 27001, or other security requirements specifically communicated or flowed down by Calian, or its customer shall prevail over the general requirements of this section to the extent of any conflict.

44. DUTY TO INFORM - Seller shall not engage any subcontractor to perform any material obligations under the Contract without providing prior written notice to Calian. Upon request, Seller shall identify the subcontractor and describe the subcontracted services.
45. ON-SITE WORK REQUIREMENTS - Where Seller, its employees, agents, subcontractors, or representatives deliver or perform Work at, enter upon, or otherwise access premises owned, leased, operated, or controlled by Calian or Calian's customer ("Site"), Supplier shall comply with the following requirements:
 1. Seller shall comply with all applicable Calian and/or customer policies, procedures, safety requirements, security protocols, environmental requirements, access controls, and instructions communicated by Calian or the Site representative. Failure to comply may result in removal from the Site and suspension of Work without liability to Calian.
 2. Seller shall perform all Work in a safe manner and in compliance with applicable occupational health and safety laws, regulations, and industry standards. Supplier shall promptly report any accident, injury, hazardous condition, property damage, or environmental incident occurring in connection with the Work.
 3. Access to Calian's or Calian's customer's facilities, equipment, networks, systems, information, drawings, data, controlled goods, export-controlled information, or restricted areas shall be limited solely to personnel with an authorized business need and any required security clearances, certifications, or approvals. Seller shall ensure that identification badges, visitor credentials, access cards, and keys are safeguarded and returned upon request or completion of the Work.

4. Seller shall exercise due care to protect Calian, customer, and government property, facilities, equipment, materials, and information from loss, damage, theft, misuse, or unauthorized disclosure. Supplier shall immediately notify Calian of any loss, damage, security concern, or suspected unauthorized access.
5. Seller shall not permit subcontractors to perform Work on Site without Calian's prior written approval. Supplier shall ensure all approved subcontractors are bound by obligations equivalent to those contained in this section.
6. Seller personnel accessing Calian information systems, customer systems, or electronic information while on Site shall comply with all applicable cybersecurity requirements communicated by Calian. The use of personal electronic devices, removable media, photography, recording devices, or wireless communications equipment may be restricted or prohibited in designated areas.
7. Calian may require the immediate removal of any Seller personnel who fail to comply with Site requirements, safety rules, security requirements, contractual obligations, or whose conduct is determined by Calian, acting reasonably, to be unsafe, disruptive, or otherwise detrimental to the performance of the Work.
8. Seller shall be responsible for all costs associated with its personnel, including travel, accommodations, training, safety equipment, certifications, security clearances, and compliance with Site requirements unless otherwise expressly agreed in writing.
9. Seller's obligations relating to safety, security, confidentiality, protection of property, cybersecurity, export controls, controlled goods, and compliance shall survive completion or termination of the Contract.