

ETAS Embedded Systems Canada Inc.
North American Terms and Conditions of Purchase
Supplement for Canada



Last revised January 1, 2018

This Country Supplement will govern if the Buyer issues the Order from a location in Canada or if the Order specifically states that this Supplement applies.

Item	Relates to Terms and Conditions Section #	Supplemental Terms - Canada
1.	12	<p>Customs Regulations – if the Buyer is an entity formed under the laws of Canada or a province or territory of Canada and acts as importer of record respecting Supplies imported into Canada, the following will apply:</p> <ol style="list-style-type: none"> 1. Upon request of Buyer, Seller will immediately provide to Buyer prior to shipment of the Supplies information in writing necessary for a true, valid and complete customs declaration to be made by Buyer to the Canada Border Services Agency (“CBSA”), including but not limited to information identifying the origin, tariff classification, quantity, and value of the imported Supplies. This information will also include the classification of the Supplies under any export control programs administered by the governments of the country of export and the country of origin of the Supplies. 2. Seller shall hold harmless, indemnify, and reimburse Buyer for any duties, taxes, penalties, interest, costs, legal or other fees or any amounts incurred by or which may become payable by Buyer as a result of Seller’s failure to provide to Buyer prior to shipment of the Supplies the information required in Section 1 above, or as a result of the provision by Seller of incorrect information. Buyer shall be entitled to deduct any amounts which may become owing by Seller under this section from the balance owing by Buyer on any unpaid invoices of Seller. 3. If Seller identifies the origin of the Supplies as a country that is a beneficiary of a Preferential Tariff as set out in the List of Tariff Provisions contained in the Schedule to Canada’s Customs Tariff (or any tariff, rule or regulation that is a successor thereto), including but not limited to the United States Tariff, the Mexico Tariff or the General Preferential Tariff, Seller shall provide to Buyer proof of origin of the Supplies, including true and valid certificates of origin in respect of the Supplies, as required under Canadian law in order for the Supplies to qualify for duty-free or preferential duty treatment. Seller shall provide the required proof of origin to Buyer prior to the shipment of the Supplies. 4. Seller shall advise Buyer immediately of any change in its manufacturing and production processes, or in its sourcing practices, which could affect the validity of any certificates of origin and other proof of origin provided to, or which may in future be provided to, Buyer. 5. In the event that Seller becomes aware that CBSA is considering or initiating an investigation of the origin of the Supplies, Seller shall notify Buyer immediately. Seller agrees to fully participate and cooperate in any such review or audit by CBSA of the origin of the Supplies. In the event of an unfavorable determination, and at the direction of Buyer, Seller shall appeal or provide Buyer assistance in pursuing any appeals of such unfavorable determinations. 6. Seller shall keep and maintain all records necessary to support the validity of any certificates of origin and other proof of origin provided to Buyer in accordance

		<p>with Canadian and other applicable laws.</p> <p>7. Seller shall hold harmless, indemnify, and reimburse Buyer for any duties, taxes, penalties, interest, costs, legal or other fees or any amounts incurred by or which may become payable by Buyer as a result of a false or invalid certificate of origin or other proof of origin in respect of the Supplies or Seller's failure to abide by any of the requirements contained in Sections 3 through 5. Buyer shall be entitled to deduct any amounts which may become owing by Seller under this section from the balance owing by Buyer on any unpaid invoices of Seller.</p> <p>8. Buyer shall have the right to cancel any purchase order or contract regarding the Supplies without liability to Seller, and without prejudice to Buyer's rights to claim damages against Seller, in the event that Seller has not, to the satisfaction of Buyer, complied with any of the requirements contained in Sections 1 through 7.</p> <p>9. Seller shall be responsible for the full costs of any delay in delivery of the Supplies caused by its failure to comply with the requirements contained in Sections 1 through 7. Buyer shall be entitled to deduct any amounts which may become owing by Seller under this section from the balance owing by Buyer on any unpaid invoices of Seller.</p> <p>Where Seller acts as importer of record regarding Supplies imported into Canada...</p> <p>1. Seller shall be responsible for compliance with all Canadian and other applicable laws regarding the importation of Supplies into Canada, including the declaration of origin, classification and value for duty of the imported supplies.</p> <p>2. In no circumstances will Buyer be liable to Seller for any duties, taxes, penalties, interest, costs, legal or other fees or any amounts incurred by or which may become payable by Seller regarding the importation of Supplies into Canada.</p> <p>3. Seller shall hold harmless, indemnify, and reimburse Buyer for any duties, taxes, penalties, interest, costs, legal or other fees or any amounts incurred by or which may become payable by Buyer as a result of Seller's failure to comply with Canadian and other applicable laws regarding the importation of Supplies into Canada. Buyer shall be entitled to deduct any amounts which may become owing by Seller under this section from the balance owing by Buyer on any unpaid invoices of Seller.</p> <p>4. Seller shall be responsible for the full costs to Buyer of any delay in delivery of the Supplies caused by Seller's failure to comply with the requirements contained in Section 1. Buyer shall be entitled to deduct any amounts which may become owing by Seller under this section from the balance owing by Buyer on any unpaid invoices of Seller.</p>
2.	20	If the Seller is a Canadian based seller, the provisions of the <i>Warehouse Receipts Act</i> (Ontario) or such other relevant similar provincial legislation shall apply to the storage of Buyer's property at Seller's premises. Seller shall issue a warehouse receipt clearly marked as non-negotiable to Buyer.
3.	20.4	References to UCC-1 forms are amended to refer to financing statements or similar documents under the relevant provincial personal property security laws.
4.	20.6	Reference to "molder's and builder's liens" is amended to refer to "construction liens" and "repair and storage liens".
5.	21.5	If the Seller is a Canadian based seller, it shall retain all cost records for a period of 5 years after receiving final payment of the charges

6.	24.3	<p>The following sentence is added to the end of Section 24.3:</p> <p>“Seller shall also obtain assignments to Buyer of all right, title and interest in and to all copyrights and moral rights therein from any of its employees or independent contractors who have created the work on behalf of the Seller and those employees or independent contractors shall also assign such rights to Buyer.”</p>
7.	23.7	<p>The obligation of the Seller to keep all relevant documents shall be for a period of at least 5 years if the Seller is Canadian.</p>
8.	25.2	<p>The following sentence is added to the end of Section 25.2:</p> <p>The Seller shall keep and maintain a record of every breach of security safeguards involving personal data and produce such records to the Buyer at the Buyer’s request. The Seller shall retain such records for at least 24 months after the day on which the Seller determined the breach has occurred.</p>
9.	28.1	<p>If the Seller is a Canadian based seller, then the provision shall include compliance with provincial laws and other laws of Canada.</p>
10.	28.2	<p>If the Seller is a Canadian based seller, then it warrants that all Supplies fully comply with all Canadian federal, provincial and local environmental laws and regulations.</p>
11.	30.1	<p>If the Seller is a Canadian based seller, then it may not enter into an amalgamation, in addition to other transactions already listed in Section 30.1, without the prior written consent of the Buyer if such amalgamation would result in a change of control of Seller.</p>
12.	34.3	<p>If the Buyer is an entity formed under the laws of Canada or a province or territory of Canada, the Order and the Canada Country Supplement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto. If the Buyer is an entity formed under the laws of a state within the United States of America, the Order and the Canada Country Supplement will be governed by and construed in accordance with the laws of the State of Michigan and the laws of the United States of America applicable thereto.</p> <p>If the Buyer is an entity formed under the laws of Canada or a province or territory of Canada, the Seller and Buyer each agree to attorn for confirmation of or any challenge to the Arbitration Award to the exclusive jurisdiction of the courts of the Province of Ontario. If the Buyer is an entity formed under the laws of a state within the United States of America, the Seller and Buyer each agree to venue for confirmation of or any challenge to the Arbitration Award in the Michigan Circuit Court for the County of Oakland or the United States court for the Eastern District of Michigan.</p> <p>The provisions of the <i>International Sale of Goods Act</i> (Ontario), or like provincial statutes in other provinces, are excluded. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, and any conflict-of-laws provisions that would require applications of another choice of law, are excluded.</p>
13.	New 38.3	<p>A new section 38.3 is added as follows:</p> <p>“The parties acknowledge that it is their wish that this supplement and all documents relating thereto be in the English language only. Les parties aux presents reconnaissent avoir voulu que ce supplément ainsi que tous les documents qui s’y rattachent soient rédigés en langue anglaise seulement.”</p>

14.	New 38.4	<p>The following provision is added to the terms and conditions:</p> <p>“Where the Seller is a Canadian based seller, all references to the UCC contained in the Terms and Conditions shall be deemed to include the comparable references to the <i>Personal Property Security Act</i> (Ontario) to the extent possible. Seller will provide all required financing statements to perfect Buyer’s interests under the POTC.”</p>
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