



**GENERAL TERMS OF PURCHASE**

**1. ACCEPTANCE OF TERMS.** Seller agrees to be bound by and to comply with all terms set forth herein and in the purchase order, to which these terms are attached and are expressly incorporated by reference (collectively, the "Order"), including any amendments, supplements, specifications and other documents referred to in this Order. Acknowledgement of this Order, including without limitation by beginning performance of the work called for by this Order, shall be deemed acceptance of this Order. The terms set forth in this Order take precedence over any alternative terms in any other document connected with this transaction unless such alternative terms are: i) part of a written supply agreement ("Supply Agreement"), which has been negotiated between the parties and which the parties have expressly agreed may override these terms in the event of a conflict and/or ii) set forth on the face of the Order to which these terms are attached. In the event these terms are part of a written Supply Agreement between the parties, the term "Order" used herein shall mean any purchase order issued under the Supply Agreement. This Order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in this Order to any such offer to sell, quotation or proposal shall in no way constitute a modification of any of the terms of this Order. The terms in this Order shall also apply if the Buyer receives and accepts Seller's goods even if delivered under Seller's contradictory terms. **ANY ATTEMPTED ACKNOWLEDGMENT OF THIS ORDER CONTAINING TERMS INCONSISTENT WITH OR IN ADDITION TO THE TERMS OF THIS ORDER IS NOT BINDING UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING.**

**2. PRICES AND PAYMENTS.**

2.1 All prices are firm and shall not be subject to change. Seller's price includes all payroll and/or occupational taxes, any value added tax that is not recoverable by Buyer and any other taxes, fees and/or duties applicable to the goods and/or services purchased under this Order; provided, however, that any value added tax that is recoverable by Buyer, state and local sales, use, excise and/or privilege taxes, if applicable will be separately identified on Seller's invoice. If Seller is obligated by law to charge any value added and/or similar tax to Buyer, Seller shall ensure that if such value-added and/or similar tax is applicable, that it is invoiced to Buyer in accordance with applicable rules so as to allow Buyer to reclaim such value-added and/or similar tax from the appropriate government authority. Neither party is responsible for taxes on the other party's income or the income of the other party's personnel or subcontractors. Seller shall submit Buyer the Certificate of Residence or Domicile in the Country of performance of the Services and, if any, the certificate of exemption released by the appropriate Governmental Authorities of the Country where the Services are performed. If Seller is not resident or not registered in the Country where the Services are rendered, Seller must provide Buyer with a letter heading and duly signed Statement that the Seller has no Permanent Establishment in the Country where the Services are rendered according to the applicable Bilateral Tax Treaty, if any. The above-mentioned certificates and statement must be delivered at Buyer at least before the Agreement execution starting date and before thirty days from each payment. If Buyer is required by government regulation to withhold taxes for which Seller is responsible, Buyer will deduct such withholding tax from payment to Seller and provide to Seller a valid tax receipt in Seller's name. Seller shall also be responsible for: (i) the payment of all taxes, duties, levies, charges and contributions and any interest or penalties thereon included but not limited to, income, profits, corporation taxes and taxes on capital gains, turnover and added value taxes now or hereafter levied or imposed by any local and or national fiscal authority, including those relating to or assessed upon any actual or assumed profits, wages, salaries, turnover or gains for which, in relation the Agreement, the Seller is responsible and liable ("Seller Taxes"), (ii) compliance with all statutory and tax obligations to make deductions on account of and remit the required amounts to any appropriate government authority, including, but not limited to Income Tax, national insurances, employees taxes, charges, social security costs, levies and contributions whether or not they are measured by he wages, salaries or other remunerations or benefits paid to persons employed by the Seller, or persons providing services in connection with the performance of the work to the Vendor under this Agreement, and the imposition of a similar obligation upon any Sub-Seller providing Services to such Sub-Seller, (iii) Ensuring that any Sub-Seller shall comply with Art. 2. If Seller and its Sub Sellers do not comply with Art. 2, Seller shall indemnify Buyer for any cost, risk and responsibility including, but not limited to, fees, taxes, duties, charges, penalties, legal expenses, and interests, which Buyer might suffer as a result of Seller's lack of compliance. Seller warrants the pricing for any goods or services shall not exceed the pricing for the same or, comparable goods or services offered by Seller to third parties. Seller shall promptly inform Buyer of any lower pricing levels for same or comparable goods or services and the parties shall promptly make the appropriate price adjustment.

2.2 Unless otherwise stated on the face of this Order, payment terms are net due one hundred twenty (120) days from the end of the month of the date of the invoice. Unless otherwise stated on the face of this Order, Buyer shall be entitled, either directly or through an affiliated third party, to take an early payment reduction of .0333% of the gross invoice price for each day that actual payment precedes Buyer's Normal Payment Date. By way of examples, an early payment reduction of



2.5% would correspond to a payment made 75 days earlier than the Normal Payment Date and an early payment reduction of .333% would correspond to a payment made 10 days earlier than the Normal Payment Date. Seller's invoice shall in all cases bear Buyer's Order number. Buyer shall be entitled to reject Seller's invoice if it fails to include Buyer's Order number or is otherwise inaccurate, and any resulting delay in payment shall be Seller's responsibility. Seller warrants that it is authorized to receive payment in the currency stated in this Order. No extra charges of any kind will be allowed unless specifically agreed in writing by Buyer in an official Order revision. Buyer shall be entitled at any time to set-off any and all amounts owing from Seller to Buyer or a Buyer Affiliate (defined below), on this or any other order. "Affiliate" shall for the purposes of this Order mean, with respect to either party, any entity, including without limitation, any individual, corporation, company, partnership, limited liability company or group, that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such party.

2.3 Buyer reserves the right to request Seller to provide, within fifteen (15) days of the date of the Order, a parent company guaranty from its ultimate parent company in the form and substance acceptable to Buyer. In such event the coming into force of this Order is expressly conditioned upon the provision of parent company guaranty as set forth above.

### **3. DELIVERY AND PASSAGE OF TITLE.**

3.1 Time is of the essence of this Order. If Seller fails to deliver all the goods and related documents (including, but not limited to, drawings, SPIR, certificates, manuals and quality documents) and/or complete the services as scheduled, Seller shall pay one percent (1%) of the total amount of the Order per week or part of the week of delay, up to a maximum aggregate of fifteen percent (15%) of the total amount of the Order. The parties agree that such amounts, if assessed, are a reasonable pre-estimate of the damages Buyer will suffer as a result of delay based on circumstances existing at the time the Order was issued, with the exception of any documented additional damages in connection therewith, if any. In the absence of agreed to liquidated damages, Buyer shall be entitled to recover damages that it incurs as a result of Seller's failure to perform as scheduled. Unless expressly stated to the contrary, Buyer's remedies are cumulative and Buyer shall be entitled to pursue any and all remedies available at law or equity. Further to the foregoing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedule. Should Seller enter into such commitments or engage in such production, any resulting exposure shall be for Seller's account.

3.2 Unless otherwise stated on the face of this Order: a) goods shipped to Buyer's workshop shall be delivered FCA (Seller's site); b) goods shipped as Material Shipped Direct ("MSD") shipped for delivery outside from the source country shall be delivered FCA (Seller's site), and c) goods shipped as MSD shipped for delivery within the source country shall be delivered DDU (Buyer's customer site). Title shall be transferred to Buyer upon delivery. All delivery designations are INCOTERMS 2000. Goods delivered to Buyer in advance of schedule may be returned to Seller at Seller's expense. Buyer may specify contract of carriage and named place of delivery in all cases. Failure of Seller to comply with any such Buyer specification shall cause all resulting transportation charges to be for the account of Seller and give rise to any other remedies available at law or equity. NOTE: In all cases, Seller must provide to Buyer, via the packing list and the customs invoice (as applicable), the country of origin and the appropriate export classification codes including, if applicable, the Export Control Classification Number (ECCN) and the Harmonized Tariff Codes of each and every one of the goods supplied pursuant to this Order, including in sufficient detail to satisfy applicable trade preferential or customs agreements, if any.

3.3 If goods will be delivered as MSD or for use as balance of plant by Buyer, each shipment shall include a detailed, complete bill of material/parts list that lists each component of the goods purchased by Buyer. Seller shall also include, in each item shipment, the complete bill of materials/parts list for such item and indicate which components of the bill of materials/parts list are included in the shipment as well as those bill of material/parts list components which are not included in the item shipment. This bill of material/parts list shall be included with the packing list for each shipment. When requested by Buyer, Seller must provide a packing list with values for each item.

3.4 If goods will cross an international border, Seller shall provide a commercial invoice as required for customs clearance. The invoice shall be in English, or destination country specific language, and shall include: contact names and phone numbers of persons at Buyer and Seller who have knowledge of the transaction; Buyer's order number; Buyer's order line item; release number (in the case of a blanket order); part number and detailed description of the merchandise; unit purchase price in the currency of the transaction; quantity; INCOTERM and named location; and country of origin of the goods. In addition, all goods or services provided by Buyer to Seller for the production of goods not included in the purchase price shall be separately identified on the invoice (i.e., consigned material, tooling, etc.). Each invoice shall also include the applicable Order number or other reference information for any consigned goods and shall identify any discounts or rebates from the base price used in determining the invoice value.



3.5 If goods will be delivered to a destination country having a trade preferential or customs' union agreement ("Trade Agreement") with Seller's country, Seller shall cooperate with Buyer to review the eligibility of the goods for any special program for Buyer's benefit and provide Buyer with any required documentation (e.g., EUR1 Certificate, GSP Declaration, FAD, NAFTA Certificate or other Certificate of Origin) to support the applicable special customs program (e.g., EEA, Lome Convention, EU/Mediterranean partnerships, GSP, EU-Mexico FTA, NAFTA, etc.) to allow duty free or reduced duty for entry of goods into the destination country. Similarly, should any Trade Agreement or special customs program applicable to the scope of this Order exist at any time during the execution of the same and be of benefit to Buyer in Buyer's judgment, Seller shall cooperate with Buyer's efforts to realize any such available credits, including counter-trade or offset credit value which may result from this Order and acknowledges that such credits and benefits shall inure solely to Buyer's benefit. Seller shall indemnify Buyer for any costs, fines, penalties or charges arising from Seller's inaccurate documentation or untimely cooperation. Seller shall immediately notify Buyer of any known documentation errors.

**4. BUYER'S PROPERTY.** Buyer assumes no obligation to furnish Seller with any tools, equipment or materials for the performance of Seller under this Order except as may be expressly provided otherwise; however, if Seller or its subcontractors or the employees, representatives, agents or invitees of any of them, make use of any tools, equipment or materials owned by Buyer, such tools, equipment or materials shall be accepted in "as is" condition, without any warranty whatsoever, express or implied. Unless otherwise agreed in writing, all tangible and intangible property, including, but not limited to, information or data of any description, tools, materials, drawings, computer software, know-how, documents, trademarks, copyrights, equipment or material furnished to Seller by Buyer or specially paid for by Buyer, and any replacement thereof, or any materials affixed or attached thereto, shall be and remain Buyer's personal property. Such property and, whenever practical, each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as Buyer's property and shall be safely stored separate and apart from Seller's property. Seller further agrees to comply with any handling and storage requirements provided by Buyer for such property. Seller shall use Buyer's property only to meet Buyer's orders, and shall not use it, disclose it to others or reproduce it for any other purpose. Such property, while in Seller's care, custody or control, shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost thereof with loss payable to Buyer and shall be subject to removal at Buyer's written request, in which event Seller shall prepare such property for shipment and redeliver to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. As noted in Section 3.4 above, any consigned material, tooling or technology used in production of the goods shall be identified on the commercial or proforma invoice used for international shipments. Buyer hereby grants a license to Seller to use any information, drawings, specifications, computer software, know-how and other data furnished or paid for by Buyer hereunder for the sole purpose of performing this Order for Buyer. This license is non-assignable, and is terminable with or without cause by Buyer at any time. Buyer shall own exclusively all rights in ideas, inventions, works of authorship, strategies, plans and data created in or resulting from Seller's performance under this Order, including all patent rights, copyrights, moral rights, rights in proprietary information, database rights, trademark rights and other intellectual property rights. All such intellectual property that is protectable by copyright: (a) will be considered work(s) made for hire for Buyer; or (b) Seller will give Buyer "first owner" status related to the work(s) under local copyright law where the work(s) was created; or (c) if the Governing Law (defined in Section 20) does not allow Buyer to gain ownership of such intellectual property, Seller hereby grants to Buyer an exclusive, transferable and worldwide license for such intellectual property. If by operation of law any such intellectual property is not owned in its entirety by Buyer automatically upon creation, then Seller agrees to transfer and assign to Buyer, and hereby transfers and assigns to Buyer, the entire right, title and interest throughout the world to such intellectual property. Seller further agrees to enter into and execute any documents that may be required to transfer or assign ownership in and to any such intellectual property to Buyer. Buyer expressly recognizes and agrees that, unless otherwise agreed in writing between the parties, the above rights and ownership of such rights will not extend to or encompass, and Seller shall retain exclusive ownership of, any Seller's owned or proprietary technology, and any ideas, concepts, know-how, techniques or suggestions employed by Seller in regard to such Seller owned or proprietary technology, provided however such modifications or enhancements are not based on nor not incorporate any Buyer owned or proprietary information or intellectual property. However should Seller design or manufacture for sale to any person or entity other than Buyer any goods substantially similar to, or which reasonably can substitute or repair, a Buyer good, Buyer, in any adjudication or otherwise, may require Seller to establish by clear and convincing evidence that neither Seller nor any of its employees, contractors or agents used in whole or in part, directly or indirectly, any of Buyer's property, as set forth herein, in such design or manufacture of such goods. Further, Buyer shall have the right to audit all pertinent records of Seller, and to make reasonable inspections of Seller facilities, to verify compliance with this section.

**5. DRAWINGS.** Any review or approval of drawings by Buyer will be for Seller's convenience and will not relieve Seller of its responsibility to meet all requirements of this Order.



**6. CHANGES.** Buyer may at any time make changes within the general scope of this Order in any one or more of the following: a) drawings, designs or specifications where the goods to be furnished are to be specially manufactured for Buyer; b) method of shipment or packing; c) place and time of delivery; d) amount of Buyer's furnished property; e) quality; f) quantity; or g) scope or schedule of goods and/or services. Buyer shall document such change request in writing, and Seller shall not proceed to implement any change unless and until such change is provided in writing by Buyer in an official Order revision. If any changes cause an increase or decrease in the cost of, or the time required for the performance of, any work under this Order, an equitable adjustment shall be made in the Order price or delivery schedule, or both, in writing. Any Seller claim for adjustment under this clause will be deemed waived unless asserted within fifteen (15) days from Seller's receipt of the change or suspension notification, and may only include reasonable, direct costs that will necessarily be incurred as a direct result of the change.

**7. PLANT ACCESS / INSPECTION.** In order to assess Seller's work quality, conformance with Buyer's specifications and compliance with this Order, upon reasonable notice by Buyer, all: i) goods, materials and services related in any way to the goods and services purchased hereunder (including without limitation raw materials, components, intermediate assemblies, work in process, tools and end products) shall be subject to inspection and test by Buyer and its customer or representative at all times and places, including sites where the goods and services are created or performed, whether they are at premises of Seller, Seller's suppliers or elsewhere; and ii) of Seller's books and records relating to this Order shall be subject to inspection and audit by Buyer. In the event that Seller desires to transfer any work relevant to this Order to another site or make any material modification in its manufacturing process or the procurement of materials related to the goods, it shall first consult with and obtain the prior written consent of Buyer, which consent shall not be unreasonably withheld. Such consent by Buyer shall be subject to qualification of the new site under Buyer's supplier qualification standards. If any inspection, test, audit or similar oversight activity is made on Seller's or its suppliers' premises, Seller, shall, without additional charge: (i) provide all reasonable access and assistance for the safety and convenience of the inspectors and (ii) take all necessary precautions and implement appropriate safety procedures for the safety of Buyer's personnel while they are present on such premises. If Buyer's personnel require medical attention on such premises, Seller will arrange for appropriate attention. If in Buyer's opinion the safety of its personnel on such premises may be imperiled by local conditions, Buyer may remove some or all of its personnel from such premises, and Buyer shall have no responsibility for any resulting impact on Seller or its suppliers. If specific Buyer and/or Buyer's customer tests, inspection and/or witness points are included in this Order, subject to clause 3.1 above, the goods shall not be shipped without an inspector's release or a written waiver of test/inspection/witness with respect to each such point; however, Buyer shall not be permitted to unreasonably delay shipment; and Seller shall notify Buyer in writing at least twenty (20) days prior to each of Seller's scheduled final and, if applicable, intermediate test/ inspection/witness points. Buyer's failure to inspect, accept, reject or detect defects by inspection shall neither relieve Seller from responsibility for such goods or services that are not in accordance with the Order requirements nor impose liabilities on Buyer. Seller shall provide and maintain an inspection, testing and process control system acceptable to Buyer and its customer covering the goods and services to ensure compliance with this Order and shall keep complete records available to Buyer and its customer for five (5) years after completion of this Order, or such greater period as set forth on the specifications applicable to this Order or in all applicable standards and codes. Acceptance of such system by Buyer shall not alter the obligations and liability of Seller under this Order.

**8. REJECTION.** If any of the goods and/or services furnished pursuant to this Order are found within a reasonable time after delivery to be defective or otherwise not in conformity with the requirements of this Order, including any applicable drawings and specifications, whether such defect or non-conformity relates to scope provided by Seller or a direct or indirect supplier to Seller, then Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and, at Seller's expense may: a) require Seller to immediately re-perform any defective portion of the services and/or require Seller to immediately repair or replace non-conforming goods with goods that conform to all requirements of this Order; b) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of this Order, in which event, all related costs and expenses (including but not limited to material, labor and handling costs and any required re-performance of value added machining or other service) and other reasonable charges shall be for Seller's account; c) withhold total or partial payment; d) reject and return all or any portion of such goods and/or services; and/or e) rescind this Order without liability. For any repairs or replacements, Seller, at its sole cost and expense, shall perform any tests requested by Buyer to verify conformance to this Order.

**9. WARRANTIES.**

9.1 Seller warrants that all goods and services provided pursuant to this Order, whether provided by Seller or a direct or



indirect supplier of Seller, will be free of any claims of any nature, including without limitation title claims, and will cause any lien or encumbrance asserted to be discharged, at its sole cost and expense, within thirty (30) days of its assertion (provided such liens do not arise out of Buyer's failure to pay amounts not in dispute under this Order or an act or omission of Buyer). Seller warrants and represents that all such goods and services will be new and of merchantable quality, not used, rebuilt or made of refurbished material unless approved in writing by Buyer, free from all defects in design, workmanship and material and will be fit for the particular purpose for which they are intended. Such goods and services will be provided in strict accordance with all specifications, samples, drawings, designs, descriptions or other requirements approved or adopted by Buyer. Any attempt by Seller to limit, disclaim or restrict any such warranties or remedies by acknowledgment or otherwise shall be null, void and ineffective.

9.2 The foregoing warranties shall apply for a period of: (i) twenty-four (24) months from the date when goods are put into operation or (ii) forty-eight (48) months from delivery of the goods or performance of the services, or such longer period of time as customarily provided by Seller, plus delays such as those due to non-conforming goods and services, whichever occurs last. The warranties shall apply to Buyer, its successors, assigns and the users of goods and services covered by this Order.

9.3 If any of the goods and/or services are found to be defective or otherwise not in conformity with the warranties in this Section during the warranty period then, Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may: a) require Seller to inspect, remove, reinstall, ship and repair or replace/re-perform nonconforming goods and/or services with goods and/or services that conform to all requirements of this Order; b) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of this Order, in which event all related costs and expenses (including, but not limited to, material, labor and handling costs and any required re-performance of value added machining or other service) and other reasonable charges shall be for Seller's account; and/or c) reject and return all or any portion of such goods and/or services. Any repaired or replaced good, or part thereof, or re-performed services shall carry warranties on the same terms as set forth above, with the warranty period being the greater of the original unexpired warranty or twenty-four (24) months after repair or replacement.

**10. SUSPENSION.** Buyer may at any time, by notice to Seller, suspend performance of the work for such time as it deems appropriate. Upon receiving notice of suspension, Seller shall promptly suspend work to the extent specified, properly caring for and protecting all work in progress and materials, supplies and equipment Seller has on hand for performance. Upon Buyer's request, Seller shall promptly deliver to Buyer copies of outstanding purchase orders and subcontracts for materials, equipment and/or services for the work and take such action relative to such purchase orders and subcontracts as Buyer may direct. Buyer may at any time withdraw the suspension as to all or part of the suspended work by written notice specifying the effective date and scope of withdrawal. Seller shall resume diligent performance on the specified effective date of withdrawal. All claims for increase or decrease in the cost of or the time required for the performance of any work caused by suspension shall be pursued pursuant to, and consistent with, Section 6 "Changes".

## **11. TERMINATION.**

11.1 **Termination for Convenience.** Buyer may terminate all or any part of this Order at any time by written notice to Seller. Upon termination (other than due to Seller's insolvency or default including failure to comply with this Order), Buyer and Seller shall negotiate reasonable termination costs consistent with costs allowable under Section 6 "Changes" and identified by Seller within thirty (30) days of Buyer's termination notice to Seller, unless the parties have agreed to a termination schedule in writing. Buyer shall have the right to terminate at no cost all Orders with delivery lead times of sixty (60) days or longer, by providing written notice within fourteen (14) days of final Order acceptance.

11.2 **Termination for Default.** Except for delay due to causes beyond the control and without the fault or negligence of Seller and all of its suppliers (lasting not more than sixty (60) days), Buyer, without liability, may by written notice of default, terminate the whole or any part of this Order if Seller: a) fails to perform within the time specified or in any written extension granted by Buyer; b) fails to make progress which, in Buyer's reasonable judgment, endangers performance of this Order in accordance with its terms; or c) fails to comply with any of the terms of this Order. Such termination shall become effective if Seller does not cure such failure within ten (10) days of receiving notice of default. Upon termination, Buyer may procure at Seller's expense and upon terms it deems appropriate, goods or services similar to those so terminated. Seller shall continue performance of this Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar goods or services. As an alternate remedy and in lieu of termination for default, Buyer, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller's performance, making Seller liable for any costs, expenses or damages arising from any failure of Seller's performance. If Seller for any reason anticipates difficulty in

complying with the required delivery date, or in meeting any of the other requirements of this Order, Seller shall promptly notify Buyer in writing. If Seller does not comply with Buyer's delivery schedule, Buyer may require delivery by fastest method and charges resulting from the premium transportation must be fully prepaid by Seller. Buyer's rights and remedies in this clause are in addition to any other rights and remedies provided by law, equity or under this Order.

11.3 **Termination for Insolvency/Prolonged Delay.** If Seller ceases to conduct its operations in the normal course of business or fails to meet its obligations as they mature or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, a receiver for Seller is appointed or applied for, an assignment for the benefit of creditors is made or an excused delay (or the aggregate time of multiple excused delays) lasts more than sixty (60) days, Buyer may immediately terminate this Order without liability, except for goods or services completed, delivered and accepted within a reasonable period after termination (which will be paid for at the Order price).

11.4 **Obligations on Termination.** Upon expiration or after receipt of a notice of termination for any reason, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or purchase orders for materials, services or facilities hereunder, except as necessary to complete the continued portion of this Order; and (3) terminate all subcontracts to the extent they relate to work terminated. After termination, Seller shall deliver to Buyer all completed work and work in process, including all designs, drawings, specifications, other documentation and material required or produced in connection with such work and all of Buyer's Confidential Information as set forth in Section 16.

**12. INDEMNITY AND INSURANCE.**

12.1 **Indemnity.** Seller shall defend, indemnify, release and hold harmless Buyer, its directors, officers, employees, agents, representatives, successors and assigns, whether acting in the course of their employment or otherwise, against any and all suits, actions, or proceedings, at law or in equity, and from any and all claims, demands, losses, judgments, fines, penalties, damages, costs, expenses, or liabilities (including without limitation claims for personal injury or property or environmental damage, claims or damages payable to customers of Buyer, and breaches of Sections 15 and/or 16 below) arising from any act or omission of Seller, its agents, employees, or subcontractors, except to the extent attributable to the sole and direct gross negligence of Buyer. Seller further agrees to indemnify Buyer for any attorneys' fees or other costs that Buyer incurs in the event that Buyer has to file a lawsuit or bring a claim under Section 21 to enforce any indemnity or additional insured provision of this Order.

12.2 **Insurance.** Seller shall maintain the following insurance: (i) Comprehensive General Liability in the minimum amount of 3,000,000 Euro combined single limit per occurrence with coverage for bodily injury/property damage, including coverage for contractual liability insuring the liabilities assumed in this Order, for products liability, contractors protective liability, where applicable, collapse or structural injury and/or damage to underground utilities, where applicable; (ii) Business Automobile Liability Insurance covering Comprehensive Automobile Liability covering bodily injury/property damage and all owned, hired and non-owned automotive equipment used in the performance of the Order in the amount of 2,000,000 Euro combined single limit each occurrence; (iii) Employers' Liability in the amount of 1,000,000 Euro each occurrence; (iv) Property Insurance covering the full value of all goods and services owned, rented or leased by Seller in connection with this Order and covering damage to property in Seller's care, custody and control; and (v) appropriate Workers' Compensation Insurance protecting Seller from all claims under any applicable Workers' Compensation and Occupational Disease Legislation. Coverage similar to Workers' Compensation and Employers' Liability shall be obtained for each local employee outside the EU where work in connection with this Order is performed. Buyer shall be named as additional insured under Seller's Comprehensive General Liability policy for any and all purposes arising out of or connected to this Order. All insurance purchased by Seller in compliance with this Order, will be primary to any other insurance owned, secured, or in place by Buyer, which insurance shall not be called upon by Seller's insurer to contribute in any way. Seller shall secure endorsements to this effect from all insurers of such policies. Upon request, Seller shall furnish Buyer an endorsement showing that Buyer has been named an additional insured and a certificate of insurance completed by its insurance carrier(s) certifying that insurance coverages are in effect and will not be canceled or materially changed except ten (10) days after Buyer's written approval. Seller hereby waives subrogation. All insurance specified in this section shall contain a waiver of subrogation in favor of Buyer, its Affiliates and their respective employees for all losses and damages covered by the insurances required in this section, including coverage for damage to Buyer's property in Seller's care, custody or control.

13. **ASSIGNMENT AND SUBCONTRACTING.** Seller may not assign (including by change of ownership or control, by operation of law or otherwise) this Order or any interest herein including payment, without Buyer's prior written consent. Seller shall not subcontract or delegate performance of all or any substantial part of the work called for under this Order without Buyer's prior written consent. Should Buyer grant consent to Seller's assignment or subcontract, such



assignee or subcontractor shall be bound by the terms and conditions of this Order. Further, Seller shall advise Buyer of any subcontractor or supplier to Seller: a) that will have at its facility any parts or components with Buyer's or any of its Affiliates' name, logo or trademark (or that will be responsible to affix the same); and/or b) 50% percent or more of whose output from a specific location is purchased directly or indirectly by Buyer. In addition, Seller will obtain for Buyer, unless advised to the contrary in writing, written acknowledgement by such assignee, subcontractor and/or supplier to Seller of its commitment to act in a manner consistent with Buyer's integrity policies, and to submit to, from time to time, on-site inspections or audits by Buyer or Buyer's third party designee as requested by Buyer. Buyer may freely assign this Order to any third party or Affiliate. If Seller subcontracts any part of the work under this Order outside of the final destination country where the goods purchased hereunder will be shipped, Seller shall be responsible for complying with all customs requirements related to such sub-contracts, unless otherwise set forth in this Order.

**14. PROPER BUSINESS PRACTICES.** Seller shall act in a manner consistent with Buyer's Integrity Guide for Suppliers, Contractors and Consultants, a copy of which has been made available to Seller, all laws concerning improper or illegal payments and gifts or gratuities, and agrees not to pay, promise to pay or authorize the payment of any money or anything of value, directly or indirectly, to any person for the purpose of illegally or improperly inducing a decision or obtaining or retaining business in connection with this Order. Further, in the execution of its obligations under this Order, Seller shall take the necessary precautions to prevent any injury to persons or to property.

**15. COMPLIANCE WITH LAWS.**

**15.1 General.** Seller represents, warrants, certifies and covenants (collectively, "Covenants") that it will comply with all laws applicable to the goods, services and/or activities contemplated or provided under this Order, including, but not limited to, any EU, national, international, federal, state, provincial or local law, treaty, convention, protocol, common law, regulation, directive or ordinance and all lawful orders, including judicial orders, rules and regulations issued thereunder, including without limitation those dealing with the environment, health and safety, employment, records retention, personal data protection and the transportation or storage of hazardous materials. As used in this Order, the term "hazardous materials" shall mean any substance or material defined as a hazardous material, hazardous substance, toxic substance, pesticide or dangerous good or any substance regulated on the basis of potential impact to safety, health or the environment pursuant to an applicable requirement of any entity with jurisdiction over the activities, goods or services, which are subject to this Order. Seller shall also comply with good industry practices, including the exercise of that degree of skill, diligence, prudence and foresight which can reasonably be expected from a competent Seller who is engaged in the same type of service or manufacture under similar circumstances in a manner consistent with all applicable requirements and with all applicable generally recognized international standards. Seller agrees to cooperate fully with Buyer's audit or inspection efforts intended to verify compliance by Seller with Sections 14 or 15 of this Order. Seller further agrees at Buyer's request to provide certificates relating to any applicable legal requirements or to update any and all of the certifications, representations and warranties under this Order in form and substance satisfactory to Buyer. Buyer shall have the right to audit all pertinent records of Seller and to make reasonable inspections of Seller's facilities to verify compliance with this Section 15.

**15.2 Environmental Health & Safety.**

(a) Seller Covenants that it will take appropriate actions necessary to protect the health, safety and the environment, including, without limitation, in the workplace and during transport and has established an effective program to ensure any suppliers it uses under this Order will be in conformance with section 15 of this Order.

(b) Seller Covenants that each chemical substance constituting or contained in goods sold or otherwise transferred to Buyer is listed on: (i) the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency (EPA) pursuant to the U.S. Toxic Substances Control Act ("TSCA") (15 U.S.C. 2601 et seq.), otherwise known as the TSCA Inventory, or exempted from such list under 40 CFR 720.30-38; (ii) the Federal Hazardous Substances Act (P.L. 92-516) as amended; (iii) the European Inventory of Existing Commercial Chemical Substances (EINECS) as amended; (iv) the European List of Notified Chemical Substances (ELINCS) and lawful standards and regulations thereunder; or (v) any equivalent or similar lists in any other jurisdiction to or through which Buyer informs Seller the goods will likely be shipped, or to or through which Seller otherwise has knowledge that shipment will likely occur.

(c) Seller Covenants that each chemical substance constituting or contained in goods sold or otherwise transferred to Buyer is pre-registered if required, and registered if required, under Regulation (EC) No 1907/2006 ("REACH"), is not restricted under Annex XVII of REACH and if subject to authorization under REACH, is authorized for Buyer's use. Seller shall notify Buyer if it decides not to pre-register or register substances that will be subject to pre-registration or registration under REACH and are constituting or contained in goods supplied to Buyer at least twelve (12) months before their pre-

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registration or registration deadline. Seller will monitor the publication by the European Chemicals Agency of the list of substances meeting the criteria for authorization under REACH (the “candidate list”) and immediately notify Buyer if any of the goods supplied to Buyer contain a substance officially proposed for listing on the candidate list. Seller shall provide Buyer with the name of the substance as well as with sufficient information to allow Buyer to safely use the goods or fulfill its own obligations under REACH.

(d) Seller Covenants that none of the goods sold or transferred to Buyer contain: (i) any of the following chemicals: arsenic, asbestos, benzene, beryllium, carbon tetrachloride, cyanide, lead or lead compounds, cadmium or cadmium compounds, hexavalent chromium, mercury or mercury compounds, trichloroethylene, tetrachloroethylene, methyl chloroform, polychlorinated biphenyls (PCBs), polybrominated biphenyls (PBBs), polybrominated diphenyl ethers (PBDEs); (ii) any chemical or hazardous material otherwise prohibited pursuant to Section 6 of TSCA; (iii) any chemical or hazardous material otherwise restricted pursuant to EU Directive 2002/95/EC (27 January 2003) (the “ROHS Directive”); (iv) designated ozone depleting chemicals as restricted under the Montreal Protocol (including, without limitation, 1,1,1 trichloroethane, carbon tetrachloride, Halon-1211, 1301, and 2402, and chlorofluorocarbons (CFCs) 11-13, 111-115, 211-217); (v) any substance listed on the candidate list of REACH or restricted under Annex XVII of REACH; or (vi) any other chemical or hazardous material the use of which is restricted in any other jurisdiction to or through which Buyer informs Seller the goods are likely to be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur, unless with regard to all of the foregoing, Buyer expressly agrees in writing and Seller identifies an applicable exception from any relevant legal restriction on the inclusion of such chemicals or hazardous materials in the goods sold or transferred to Buyer. Upon request from Buyer and subject to reasonable confidentiality provisions which enable Buyer to meet its compliance obligations, Seller will provide Buyer with the chemical composition, including proportions, of any substance, preparation, mixture, alloy or goods supplied under this Order and any other relevant information or data regarding the properties including without limitation test data and hazard information.

(e) Seller Covenants that, except as specifically listed on the face of this Order or in an applicable addendum, none of the goods supplied under this Order are electrical or electronic equipment under EU Directive 2002/96/EC (27 January 2003) (the “WEEE Directive”), as amended, or any other electrical or electronic equipment take-back requirement of a jurisdiction in which Buyer informs Seller the goods are likely to be sold or in which Seller otherwise has knowledge that sale will likely occur. For any goods specifically listed on the face of this Order or in such addendum as electrical or electronic equipment that are covered by the WEEE Directive, as amended, or other applicable electrical or electronic equipment take-back requirement and purchased by Buyer hereunder, Seller agrees to: (i) assume responsibility for taking back such goods in the future upon the request of Buyer and treating or otherwise managing them in accordance with the requirements of the WEEE Directive and applicable national implementing legislation or other applicable electrical or electronic equipment take-back requirements; and (ii) take back as of the date of this Order any used goods currently owned by Buyer of the same class of such goods purchased by Buyer hereunder up to the number of new units being purchased by Buyer or to arrange with a third-party to do so in accordance with all applicable requirements. Seller will not charge Buyer any additional amounts, and no additional payments will be due from Buyer for Seller’s agreement to undertake these responsibilities.

(f) Seller Covenants that all the goods supplied under this Order comply with the EU Batteries Directive 2006/66/EC and in particular, but not exhaustively, that (i) all batteries and accumulators are marked on the battery or accumulators or on their packaging with their chemical symbol(s), (ii) all batteries and accumulators containing mercury, cadmium and lead are marked with their chemical symbol(s) and (iii) all batteries and accumulators comply with the marking requirements of the EU Batteries Directive.

(g) With respect to any goods or other materials sold or otherwise transferred to Buyer hereunder, Seller shall provide all relevant information, including without limitation, safety data sheets in the language and the legally required format of the location to which the goods will be shipped and mandated labeling information, required pursuant to applicable requirements such as: (a) the Occupational Safety and Health Act (OSHA) regulations codified at 29 CFR 1910.1200; or (b) REACH or EU Directive 67/548/EEC, as amended, if applicable, and (c) any other applicable law, rule or regulation or any similar requirements in any other jurisdictions to or through which Buyer informs Seller the goods are likely to be shipped or through which Seller otherwise has knowledge that shipment will likely occur, such as U.S. Department of Transportation regulations governing the packaging, marking, shipping and documentation of hazardous materials, including hazardous materials specified pursuant to 49 CFR, the International Maritime Organization (IMO) and the International Air Transport Association (IATA).

(h) Seller represents that the goods comply with European Union New and Global Approach Directives and Harmonized Standards, including any continuing obligations into EU Member States’ national legislation, and Seller shall

submit associated documentation to the Buyer and to the surveillance authorities as necessary. Seller assumes all liabilities applicable to, or deriving from, such Directives and Standards.

15.3 **Miscellaneous.** Seller covenants that no goods or services supplied under this Order have been or will be produced: (i) utilizing forced, indentured or convict labor; (ii) utilizing the labor of persons in violation of the minimum working age law in the country of manufacture of the goods or any country in which services are provided under this Order; or (iii) in violation of minimum wage, hour of service, or overtime laws in the country of manufacture or any country in which services are provided under this Order. If forced or prison labor, or labor below applicable minimum working age, is determined to have been used in connection with this Order, Buyer shall have the right to immediately terminate the Order without further compensation.

15.4 **Anti-Dumping.** Seller represents, warrants, certifies and covenants that all sales made hereunder are made in circumstances that will not give rise to the imposition of anti-dumping or countervailing duties under United States law (19 U.S.C. Sec. 1671 et seq.), European Union (Council Regulation (EC) No. 384/96 of December 22, 1995, Commission Decision No. 2277/96/ECSC of November 28, 1996), similar laws in such jurisdictions or the law of any other country to which the goods may be exported. To the full extent permitted by law, Seller will indemnify, defend and hold Buyer harmless from and against any costs or expenses (including any countervailing duties which may be imposed and, to the extent permitted by law, any preliminary dumping duties that may be imposed) arising out of or in connection with any breach of this warranty. In the event that countervailing or anti-dumping duties are imposed that cannot be readily recovered from Seller, Buyer may terminate this Order with no further liability of any nature whatsoever to Seller hereunder. In the event that any jurisdiction imposes punitive or other additional tariffs on goods subject to this agreement in connection with a trade dispute or as a remedy in an "escape clause" action or for any other reason, Buyer may, at its option, treat such increase in duties as a condition of force majeure.

15.5 **Importer of Record and Drawback.** If goods are to be delivered DDP (INCOTERMS 2000) to the destination country, Seller agrees that Buyer will not be a party to the importation of the goods, that the transaction(s) represented by this Order will be consummated after importation and that Seller will neither cause nor permit Buyer's name to be shown as "importer of record" on any customs declaration. Seller also confirms that it has Non-Resident importation rights, if necessary, into the destination country with knowledge of the necessary import laws. If Seller is the importer of record into the United States for any goods, including any component parts thereof, associated with this Order, Seller shall provide Buyer required documentation for Duty Drawback purposes which includes, but is not limited to, Customs Form 7552 entitled "Certificate of Delivery" properly executed as well as Customs Form 7501 "Entry Summary" and a copy of Seller's Invoice.

15.6 **Export Controls.** This Order and all items furnished by Buyer to Seller in connection herewith shall at all times be subject to US, EU or other applicable export control laws and regulations. Further, Seller agrees and gives assurance that no items, equipment, materials, services, technical data, technology, software or other technical information or assistance furnished by Buyer, or any good or product resulting therefrom, shall be exported or re-exported by Seller or its authorized transferees, if any, directly or indirectly, except to the consignee(s), if any, specified on this Order, unless in accordance with applicable export laws and regulations. The aforesaid obligations shall survive any satisfaction, expiration, termination or discharge of any other contract obligations.

**For Orders to Sellers in the European Union.** Seller shall provide Buyer with (1) copy of any export authorization required for the export of Seller's goods, materials or items outside the European Union in accordance with any applicable export control law or regulation, including, without limitation, Council Regulation EC 1334/2000 as subsequently amended and supplemented to the country of ultimate destination designated by the Buyer; and (2) the export control classification number set forth in Council Regulation EC 1334/2000 as subsequently amended and supplemented if such Seller's goods, material or items are listed in Annex 1 to Council Regulation EC 1334/2000 as subsequently amended and supplemented. If, to the best of Seller's knowledge, no export authorization is required under any of the aforesaid applicable export control laws or regulations (including, without limitation, under Council Regulation EC 1334/2000 as subsequently amended and supplemented), Seller shall provide Buyer with the attached declaration, duly executed by an authorized representative of Seller. All payments under the Order shall be conditional upon the receipt by Buyer - for any goods, materials or items to be exported outside the European Union - of, as the case may be: (i) copy of the required export authorization; or (ii) executed copy of the declaration herewith attached as Annex A. In case of failure by Seller to timely provide Buyer, in respect of any goods, materials or items supplied by Seller under the Order for export outside the European Union, with either copy of the required export authorization or executed copy of the declaration herewith attached, Buyer shall have the right to forthwith terminate the Order by written notice to Seller for Seller's default in accordance with the provisions set forth in Section 11.2.



If Buyer does not designate a country of ultimate destination outside the European Union but Seller knows that such goods would require an authorization under any export control law or regulation, Seller must provide the classification to Buyer.

***For Order to Sellers in countries not belonging to the European Union.*** Seller shall provide Buyer with copy of any export authorization required for the exportation of Seller's goods, materials or items in accordance with any applicable export control law or regulation. In case of failure by Seller to timely provide Buyer with copy of any required export authorization in respect of any goods, materials or items supplied by Seller under the Order, Buyer shall have the right to forthwith terminate the Order by written notice to Seller for Seller's default in accordance with the provisions set forth in Section 11.2.

***For Orders of US-equipment.*** Seller shall be responsible for obtaining from the competent US authorities any required authorization for re-export into the country of ultimate destination to be designated by Buyer, in accordance with any applicable export control regulations. In case of failure by Seller to timely provide Buyer with copy of any required authorization in respect of goods, materials or items supplied by Seller under the Order, Buyer shall have the right to forthwith terminate the Order by written notice to Seller for Seller's default in accordance with the provisions set forth in Section 11.2.

**16. CONFIDENTIAL OR PROPRIETARY INFORMATION AND PUBLICITY.** Seller shall keep confidential any technical, process, proprietary or economic information derived from drawings, 3D or other models, specifications and any other data and/or information furnished by Buyer in connection with this Order (the "Confidential Information") and shall not divulge, directly or indirectly, the Confidential Information for the benefit of any other party without Buyer's prior written consent. Confidential Information shall also include any notes, summaries, reports, analyses or other material derived by Seller in whole or in part from the Confidential Information in whatever form maintained (collectively, "Notes"). Except as required for the efficient performance of this Order, Seller shall not use or permit copies to be made of the Confidential Information without Buyer's prior written consent. If any such reproduction is made with prior written consent, notice referring to the foregoing requirements shall be provided thereon. The restrictions in this Section regarding the Confidential Information shall be inoperative as to particular portions of the Confidential Information disclosed by Buyer to Seller if such information: (i) is or becomes generally available to the public other than as a result of disclosure by Seller; (ii) was available on a non-confidential basis prior to its disclosure to Seller; (iii) is or becomes available to Seller on a non-confidential basis from a source other than Buyer when such source is not, to the best of Seller's knowledge, subject to a confidentiality obligation with Buyer, or (iv) was independently developed by Seller, without reference to the Confidential Information, and Seller can verify the development of such information by written documentation. Upon completion or termination of this Order, Seller shall promptly return to Buyer all Confidential Information, including any copies thereof, and shall destroy (with such destruction certified in writing by Seller) all Notes and any copies thereof. Any knowledge or information, which Seller shall have disclosed or may hereafter disclose to Buyer and which in any way relates to the goods or services purchased under this Order (except to the extent deemed to be Buyer's property as set forth in Section 4) shall not be deemed to be confidential or proprietary and shall be acquired by Buyer free from any restrictions (other than a claim for infringement) as part of the consideration for this Order and notwithstanding any copyright or other notice thereon, Buyer shall have the right to use, copy, modify and disclose the same as it sees fit. Seller shall not make any announcement, take or release any photographs (except for its internal operation purposes for the manufacture and assembly of the goods), or release any information concerning this Order or any part thereof or with respect to its business relationship with Buyer, to any third party, member of the public, press, business entity or any official body except as required by applicable law, rule, injunction or administrative order without Buyer's prior written consent.

**17. INTELLECTUAL PROPERTY INDEMNIFICATION.** Seller shall indemnify, defend and hold Buyer harmless from all costs and expenses related to any suit, claim or proceeding brought against Buyer or its customers based on a claim that any article or apparatus, or any part thereof constituting goods or services furnished under this Order, as well as any device or process necessarily resulting from the use thereof, constitutes an infringement of any patent, copyright, trademark, trade secret or other intellectual property right of any third party. Buyer shall notify Seller promptly of any such suit, claim or proceeding and give Seller authority, information, and assistance (at Seller's expense) for the defense of same, and Seller shall pay all damages and costs awarded therein. If use of said article, apparatus, part, device or process is enjoined, Seller shall, at its own expense and at its option, either procure for Buyer the right to continue using said article or apparatus, part, process or device, or replace same with a non-infringing equivalent.

**18. SECURITY AND CRISIS MANAGEMENT POLICY.**

**18.1 Security and Crisis Management Policy.** Seller shall have and comply with a company security and crisis management policy, which shall be revised and maintained proactively and as may be requested by Buyer in anticipation of security and crisis risks relevant to the Seller's business ("Security and Crisis Management Policy"). The Security and Crisis

Management policy shall identify and require Seller’s management and employees to take appropriate measures necessary to do the following:

- (a) provide for the physical security of the people working on Seller’s premises and others working for or on behalf of Seller;
- (b) provide for the physical security of Seller’s facilities and physical assets related to the performance of the work, including, in particular, the protection of Seller’s mission critical equipment and assets;
- (c) protect software related to the performance of work from loss, misappropriation, corruption and/or other damage;
- (d) protect Buyer’s and Seller’s drawings, technical data and other proprietary information related to the performance of work from loss, misappropriation, corruption and/or other damage;
- (e) provide for the prompt recovery, including through preparation, adoption and maintenance of a disaster recovery plan, of facilities, physical assets, software, drawings, technical data, other intellectual property and/or the Seller’s business operations in the event of a security breach, incident, crisis or other disruption in Seller’s ability to use the necessary facilities, physical assets, software, drawings, technical data or other intellectual property and/or to continue its operations; and
- (f) ensure the physical integrity and security of all shipments against the unauthorized introduction of harmful or dangerous materials.

Buyer reserves the right to inspect Seller’s Security and Crisis Management Policy and to conduct on-site audits of Seller’s facility and practices to determine whether such policy and Seller’s implementation of such policy are reasonably sufficient to protect Buyer’s interests. If Buyer reasonably determines that Seller’s Security and Crisis Management Policy and/or such policy implementation is/are insufficient to protect Buyer’s property and interests, Buyer may give Seller notice of such determination. Upon receiving such notice, Seller shall have forty-five (45) days thereafter to make such policy changes and take the implementation actions reasonably requested by Buyer. Seller’s failure to take such actions shall give Buyer the right to terminate this Order immediately without further compensation to Seller.

**18.2 C-TPAT Compliance.** The Customs-Trade Partnership Against Terrorism (“C-TPAT”) program of the U.S. Customs and Border Protection is designed to improve the security of shipments to the United States. This section applies only to Sellers with non-U.S. locations that are involved in the manufacture, warehousing or shipment of goods to Buyer or to a customer or supplier of Buyer located in the United States. Seller agrees that it will review the C-TPAT requirements for foreign manufacturers and that it will maintain a written plan for security procedures consistent with the recommendations of U.S. Customs and Border Protection as outlined at [http://www.cbp.gov/xp/cgov/import/commercial\\_enforcement/ctpat/](http://www.cbp.gov/xp/cgov/import/commercial_enforcement/ctpat/) (“Security Plan”). The Security Plan shall address security criteria such as: container security and inspection, physical access controls, personnel security, procedural security, security training and threat awareness and information technology security. Note: The C-TPAT recommendations are similar to the Security and Crisis Management Policy requirements in Section 18.1 above, and Seller’s Security and Crisis Management Policy may meet the recommendations of C-TPAT. Upon request of Buyer, Seller shall:

- (a) certify to Buyer in writing that it has read the C-TPAT security criteria, maintains a written Security Plan consistent with the C-TPAT security criteria and has implemented appropriate procedures pursuant to such plan;
- (b) identify an individual contact responsible for Seller’s facility, personnel and shipment security measures and provide such individual’s name, title, address, email address and telephone and fax numbers; and
- (c) inform Buyer of its C-TPAT membership status.

Where Seller does not exercise control of manufacturing or transportation of goods destined for delivery to Buyer or its customers in the U.S., Seller agrees to communicate the C-TPAT recommendations to its suppliers and transportation providers and to use commercially reasonable efforts to ensure that such suppliers and transportation providers implement such recommendations. Further, upon advance notice by Buyer to Seller and during Seller’s normal business hours, Seller shall make its facility available for inspection by Buyer’s representative for the purpose of reviewing Seller’s compliance with the C-TPAT security recommendations and with Seller’s Security Plan. Each party shall bear its own costs in relation to such inspection and review. All other costs associated with development and implementation of Seller’s Security Plan and C-TPAT compliance shall be borne by the Seller.

**19. PACKING, PRESERVATION AND MARKING.** Packing, preservation and marking will be in accordance with the specification drawing or as specified on the Order, or if not specified, the best commercially accepted practice will be



used, and at a minimum consistent with applicable law. In addition, Seller shall include the following information on each shipment under this Order: Buyer's Order number, case number, routing center number (if provided by Buyer's routing center), country of manufacture, destination shipping address, commodity description, gross/net weight in kilograms and pounds, dimensions in centimeters and inches, center of gravity for items greater than one (1) ton and precautionary marks (e.g., fragile, glass, air ride only, do not stack, etc.), loading hook/lifting points and chain/securing locations where applicable to avoid damage and improper handling. Seller shall place all markings in a conspicuous location as legibly, indelibly and permanently as the nature of the article or container will permit. All goods shall be packed in an appropriate manner, giving due consideration to the nature of the goods, with packaging suitable to protect the goods during transport from damage and otherwise to guarantee the integrity of the goods to destination. Goods that cannot be packed due to size or weight shall be loaded into suitable containers, pallets, or crossbars thick enough to allow safe lifting and unloading. Vehicles that reach their destination and present unloading difficulties will be sent back to their point of departure.

**20. GOVERNING LAW.** Except to the extent otherwise set forth on the face of this Order, or otherwise agreed to in writing as to this Order by the parties, this Order shall in all respects be governed by and interpreted in accordance with the substantive law of England and Wales, excluding its conflicts of law provisions ("Governing Law"). The parties exclude application of the United Nations Convention on Contracts for the International Sale of Goods.

**21. DISPUTE RESOLUTION.**

21.1 Without prejudice to Buyer's right to enforce its rights by way of injunction or emergency measures of protection before a court of competent jurisdiction, any dispute arising out of or in connection with these Terms of Purchase, including any question regarding its existence, interpretation, validity or termination, shall be resolved, if possible, by negotiation between the parties. If the parties are unable to resolve the dispute by negotiation, such dispute will be resolved in accordance with this article.

21.2 In the event the total amount in dispute is below € 50,000 (Fifty Thousand Euro), it shall be determined by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Dispute Resolution Procedures, as modified by the ICDR Online Protocol for Manufacturer/Supplier Disputes then in effect. (Please refer to the International Dispute Resolution Procedures and the ICDR Online Protocol for Manufacturer/Supplier Disputes at <http://www.icdr.org>).

21.3 In the event the total amount in dispute is higher than € 50,000 (Fifty Thousand Euro), the parties agree to submit the matter to settlement proceedings under the ADR Rules of the International Chamber of Commerce ("ICC"). If the dispute has not been settled pursuant to said Rules within forty-five (45) days following the filing of a Request for ADR or within such other period as the parties may agree in writing, any unresolved controversy or claim arising out of or relating to this contract shall be finally settled under the Rules of Arbitration and Conciliation of the ICC by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Florence, Italy, and proceedings shall be conducted in the English language unless otherwise agreed. The award shall be final and binding on both Buyer and Seller, and the parties hereby waive the right of appeal to any court for amendment or modification of the arbitrators' award.

**22. WAIVER.** No claim or right arising out of a breach of this Order can be discharged in whole or in part by a waiver or renunciation unless supported by consideration and made in writing signed by the aggrieved party. Either party's failure to enforce any provisions hereof shall not be construed a waiver of a party's right thereafter to enforce each and every such provision.

**23. ELECTRONIC COMMERCE.** Seller agrees to participate in all of Buyer's current and future electronic commerce applications and initiatives upon Buyer's request. For contract formation, administration, changes and all other purposes, each electronic message sent between the parties within such applications or initiatives will be deemed: a) "written" and a "writing"; b) "signed" (in the manner below); and c) an original business record when printed from electronic files or records established and maintained in the normal course of business. The parties expressly waive any right to object to the validity, effectiveness or enforceability of any such electronic message on the ground that a "statute of frauds" or any other law requires written, signed agreements. Between the parties, any such electronic documents may be introduced as evidence in any proceedings as business records originated and maintained in paper form. Neither party shall object to the admission of any such electronic document under either the best evidence rule or the business records exception to the hearsay rule. By placing a name or other identifier on any such electronic message, the party doing so intends to sign the message with his/her signature attributed to the message content. The effect of each such message will be determined by the electronic message content and by the Governing Law, excluding any such law requiring signed agreements or otherwise in conflict with this paragraph.

**24. PERSONAL DATA PROTECTION.**

24.1 “Personal Data” includes any information relating to an identified or identifiable natural person; “Buyer Personal Data” includes any Personal Data obtained by Seller from Buyer; and “Processing” includes any operation or set of operations performed upon Personal Data, such as collection, recording, organizing, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

24.2 Seller, including its officers, directors, employees and/or agents, shall view and Process Buyer Personal Data only on a need-to-know basis and only to the extent necessary to perform this Order or to carry out Buyer’s further written instructions.

24.3 Seller shall use reasonable technical and organizational measures to ensure the security and confidentiality of Buyer Personal Data in order to prevent, among other things, accidental, unauthorized or unlawful destruction, modification, disclosure, access or loss. Seller shall immediately inform Buyer of any Security Breach involving Buyer Personal Data, where “Security Breach” means any event involving an actual, potential or threatened compromise of the security, confidentiality or integrity of the data, including but not limited to any unauthorized access or use. Seller shall also provide Buyer with a detailed description of the Security Breach, the type of data that was the subject of the Security Breach, the identity of each affected person and any other information Buyer may request concerning such affected persons and the details of the breach, as soon as such information can be collected or otherwise becomes available. Seller agrees to take action immediately, at its own expense, to investigate the Security Breach and to identify, prevent, and mitigate the effects of any such Security Breach and to carry out any recovery necessary to remedy the impact. Buyer must first approve the content of any filings, communications, notices, press releases or reports related to any Security Breach (“Notices”) prior to any publication or communication thereof to any third party. Seller also agrees to bear any cost or loss Buyer may incur as a result of the Security Breach, including without limitation, the cost of Notices.

24.4 Upon termination of this Order, for whatever reason, Seller shall stop the Processing of Buyer Personal Data, unless instructed otherwise by Buyer, and these undertakings shall remain in force until such time as Seller no longer possesses Buyer Personal Data.

24.5 Seller understands and agrees that Buyer may require Seller to provide certain Personal Data (“Seller Personal Data”) such as the name, address, telephone number and e-mail address of Seller’s representatives in transactions and that Buyer and its Affiliates and its or their contractors may store such data in databases located and accessible globally by their personnel and use it for purposes reasonably related to the performance of this Order, including but not limited to supplier and payment administration. Seller agrees that it will comply with all legal requirements associated with the transfer of Seller’s Personal Data to Buyer. Buyer will be the Controller of this data for legal purposes and agrees not to share Seller Personal Data beyond Buyer, its Affiliates and its or their contractors, and to use reasonable technical and organizational measures to ensure that Seller Personal Data is processed in conformity with applicable data protection laws. “Controller” shall mean the legal entity which alone or jointly with others determines the purposes and means of the processing of Personal Data. By written notice to Buyer, Seller may obtain a copy of the Seller Personal Data and submit updates and corrections to it.

**25. ENTIRE AGREEMENT.** This Order, with documents as are expressly incorporated by reference, is intended as a complete, exclusive and final expression of the parties’ agreement with respect to the subject matter herein and supersedes any prior or contemporaneous agreements, whether written or oral, between the parties. This Order may be executed in one or more counterparts, each of which shall for all purposes be deemed an original and all of which shall constitute the same instrument. Facsimile signatures on such counterparts are deemed originals. No course of prior dealings and no usage of the trade shall be relevant to determine the meaning of this Order even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. The term “including” shall mean and be construed as “including, but not limited to”, unless expressly stated to the contrary. The invalidity, in whole or in part, of any of the foregoing articles or paragraphs of this Order shall not affect the remainder of such articles or paragraphs or any other article or paragraph of this Order, which shall continue in full force and effect. Further, the parties agree to give any such article or provision deemed invalid, in whole or in part, a lawful interpretation that most closely reflects the original intention of Buyer and Seller. All provisions or obligations contained in this Order, which by their nature or effect are required or intended to be observed, kept or performed after termination or expiration of an Order will survive and remain binding upon and for the benefit of the parties, their successors (including without limitation successors by merger) and permitted assigns including, without limitation, Sections 4, 5, 8, 9, 12, 15, 16, 17, and 24.

ANNEX A

Company Name  
 Address.....  
 Telephone number.....

\_\_\_\_\_, \_\_\_\_\_

DICHIARAZIONE/DECLARATION  
 To Whom It May Concern

Spedizione merce di cui alla ns. fattura/Shipment of goods as per our invoice n.

Il sottoscritto \_\_\_\_\_, in qualità di \_\_\_\_\_ di \_\_\_\_\_, con sede in \_\_\_\_\_, dichiara che la merce descritta nella/e nostra/e fattura/e di seguito elencata/e:

\_\_\_\_\_  
 \_\_\_\_\_

non rientra nell'elenco dei prodotti e tecnologie a duplice uso di cui all'Art. 3 del Regolamento CE 1334/2000 come modificato da ultimo con Regolamento CE 1183/2007; non ha, direttamente o indirettamente, in tutto o in parte, alcun impiego militare né alcun impiego come componente di qualsivoglia armamento, strumento o fornitura di utilizzo militare; non è destinata ad alcun paese nei confronti del quale sia in vigore un embargo militare sancito dai competenti organi internazionali riconosciuti e non è soggetta a vendite triangolari.

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The undersigned \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ at \_\_\_\_\_, a company having its registered office at \_\_\_\_\_, hereby declares that the goods described on the invoice/s listed below:

\_\_\_\_\_  
 \_\_\_\_\_

are not included on the list of dual use items and technologies referred to in Section 3 of EU Regulation No. CE 1334/2000 as amended by EU Regulation No. CE 1187/2007 and / or as subsequently amended and supplemented; are not, directly or indirectly, in full or in part, military nor originally designed as component of any weapon, instrument or supply for military use.