

EDS MANUFACTURING INC.
PURCHASE ORDER TERMS AND CONDITIONS

1. AGREEMENT

These Terms and Conditions govern the relationship between the parties. Each Purchase Order or Purchase Order revision issued by the “**Buyer**”, EDS Manufacturing Inc., (hereinafter referred to as an “**Order**” or “**the Order**”) is an offer to the seller identified on the Order (the “**Seller**”) for the purchase of goods and/or services. When accepted, the Order supersedes all prior agreements, Orders, quotations, proposals and other communications regarding the goods and/or services covered by the Order. The Order includes:

- (a) These Terms and Conditions (hereinafter referred to as “**Terms**”)—Seller shall visit Buyer’s website www.edsmanufacturing.com periodically to review any updates to these Terms;
- (b) Buyer’s designs, authorized change orders;
- (c) OEM Order (see paragraph 10 below);
- (d) shipment releases;
- (e) and any amendments that are accepted and signed by both parties (collectively the “**Contract Documents**”).

Seller is a merchant of the goods and services identified in the Contract Documents. Buyer is not a merchant of the goods and services. Seller shall be deemed to have accepted the provisions of the contract documents by any of the following:

- (a) Signing any of the Contract Documents;
- (b) Sending to Buyer a written acknowledgement of any Contract Documents;
- (c) Communicating to Buyer regarding, or commencing performance with respect to, the goods and services following receipt of any Contract Documents;
- (d) Failing to object to a communication regarding the merchandise within ten days after receiving any Contract Documents;
- (e) Delivery of any part of the goods or services;
- (f) Accepting payment for any part of the goods or services; or
- (g) indicating in some other manner Seller’s acceptance of any Contract Documents.

Buyer may revoke its offer to purchase the goods or services at any time prior to Seller's acceptance. Upon acceptance, Seller irrevocably agrees to sell and deliver the goods and services in strict compliance with the Contract Documents. The Order is limited to and conditional upon Seller's acceptance of these terms exclusively. The Order does not constitute an acceptance of any offer or proposal made by Seller. BUYER HEREBY OBJECTS TO AND REJECTS THE PROVISIONS OF ANY CONFIRMATION OR OTHER DOCUMENT AND ANY TERMS SUPPLIED BY ANY TRADE USAGES OR COURSE OF DEALING WHICH ARE INCONSISTENT WITH OR IN ADDITION TO THESE TERMS OR THE PROVISIONS OF BUYER'S CONTRACT DOCUMENTS (WHICH INCONSISTENT OR ADDITIONAL PROVISIONS ARE HEREBY EXCLUDED FROM THIS CONTRACT), AND BUYER'S OFFER AND OBLIGATIONS ARE EXPRESSLY CONDITIONED UPON SELLER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS. THE CONTRACT DOCUMENTS SHALL BE THE COMPLETE AND EXCLUSIVE CONTRACT BETWEEN BUYER AND SELLER WITH RESPECT TO THE GOODS AND SERVICES (THE CONTRACT) AND MAY BE MODIFIED ONLY IN A WRITING SIGNED BY BUYER'S AUTHORIZED REPRESENTATIVE. The parties have agreed that it is their intent that the "battle of the forms", Section 2-207 of the Uniform Commercial Code shall not apply to these Terms or to any invoice or acceptance form of Seller relating to these terms. It is the parties' intent that these Terms shall exclusively control the relationship of the parties, and in the event of any inconsistency between any acceptance form or invoice sent by Seller to Buyer, these Terms shall control.

2. PRICE

The goods or services shall be furnished at a price set forth on the face of the Order. Unless otherwise stated, all goods shall be delivered by Seller "DDP-BUYER's ship to address-BUYER'S plant," in which case all transportation charges (including terminal or other charges) shall be at Seller's expense unless Buyer chooses different payment terms which would then be defined on the front of the Purchase Order, but which in no case shall include tariffs (even if the Purchase Order signifies Ex-Works or EXW). The prices stated are complete, and no additional charges, surcharges, premiums or additional charges of any type shall be added without Buyer's written consent, including, but not limited to, shipping, packaging, labeling, custom duties, federal, provincial, state and local taxes (including all import taxes, excise taxes and sales taxes), tariffs, storage, parking, detention charges, insurance, boxing, crating, drayage or containers. Any reduction in Seller's cost resulting from a reduction in transportation charges, customs duties, import taxes, excise taxes and/or sales taxes from those in effect on the date of any Order shall be paid to Buyer by Seller as a reduction of the price. Risk of loss or damage of goods shall be upon Seller and Seller shall insure goods in transit. Prices are not subject to increase, unless specifically stated in the Order or an agreement, and Seller assumes the risk of any event or cause affecting prices, including but not limited to foreign exchange rates, increases in raw material costs, inflation, increases in labor and other production and supply costs, and any other event which impacts the price or availability of materials or supplies. The time for payment shall not begin until correct and complete invoices and shipping confirmation documentation is received. If no payment term appears on the Order or in an agreement, Buyer will pay Seller for the goods or services net 60 days grouping payments each fortnight (i.e. every two weeks) following Buyer's receipt of the goods or services at Buyer's designated facility or, in cases of services, Buyer's receipt of Seller's invoice following completion of the services. Buyer may withhold payment

pending receipt of evidence, in the form and detail requested by Buyer, of the absence of any liens, encumbrances, or claims on the goods or services provided under the Order. Payment will be made in the currency expressly stated in the Order; if no currency is noted, payment will be made in U.S. dollars. Seller will pay for all premium freight costs over normal freight costs if Seller needs to use an expedited shipping method to meet agreed upon delivery dates due to its own acts or omissions. Seller represents and warrants that prices are, and will remain, no less favorable to Buyer than any price which Seller presently, or in the future, offers to any other customer for the same or substantially similar goods or services for substantially similar quantities. Seller shall not delay any deliveries of goods pending the determination of any price adjustments or resolution of invoicing disputes or reconciliations under this Purchase Order.

Raw material pricing adjustments will be made solely for copper and shall be made in the following manner. Price shall be based on AMM COMEX Spot Copper. Adjustments shall be made on January 1 and July 1 each year based on the average price of copper on the first day of each of the three preceding months.

3. DELIVERY: TIME AND QUANTITIES ARE OF THE ESSENCE UNDER THE ORDER

Seller agrees to 100% on-time delivery of the quantities and at the times specified by Buyer as stated in the Order, firm delivery, shipment releases, authorizations, manifests, broadcasts or similar written instructions issued or transmitted by Buyer to Seller from time to time in reference to the Order (collectively referred to herein as "**Releases**"). Seller agrees to provide a confirmation of every Release received from Buyer and if Seller fails to respond to Release within 10 days shall be deemed to have accepted the Release. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduling shipment, neither of which entitle Seller to modify the price of the goods or services. Buyer shall not be obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries. If it accepts an early delivery, it reserves the right to back-charge Seller for any incidental storage charges caused by the early delivery. All shipments shall be made with Buyer designated or approved carriers. Risk of loss or damage to goods in transit shall be upon Seller and Seller shall insure the goods in transit. If delivery is not timely, Buyer may direct Seller to make expedited routing at Seller's expense. Seller will enclose packing slips with all shipments showing Order numbers, descriptions, parts numbers and quantities. Buyer shall not be required to make payment for delivered goods in excess of specified quantities. Shipments in excess of that authorized by Buyer may be returned to Seller at Seller's expense. The goods shall be properly packed, marked (including correlatively numbered if part of a single delivery), loaded and shipped as required by this contract and by the transporting carrier. If delivery dates are not specified in this order, Seller shall procure materials and fabricate, assemble, and ship goods only as authorized in Releases issued by Buyer. Invoices in DUPLICATE, showing Order and date of Release, shall be rendered promptly after shipment has been made. Invoices received by Buyer five days or more after shipment may be re-dated as of date received and payment made according to terms of purchase. Seller will support EDI protocol and adhere to AIAG Bar Code Standards. Certificate of origin will be reflected in the delivery documents. Seller shall adhere to Buyer's shipment and other requirements as set forth in the Buyer's Supplier Procedural Manual, as they may change from time to time, previously incorporated by reference.

4. QUANTITIES

Quantities listed in each Order as estimated or Buyer's best estimate of quantities of goods and services it may purchase from Seller during the contract term as specified in the Order. Any estimates or forecast of production volumes are subject to change from time to time, with or without notice to Seller, and shall not be binding upon Buyer. If the face of this Order does not specify the quantities, or specifies the quantities as "blanket order," "as released," "as scheduled," "as directed," "subject to Buyer's production releases," or in another similar fashion, then, in consideration for ten U.S. dollars (U.S. \$10.00), the payment of which shall be made by Buyer upon the termination or non-renewal of this Order, Seller grants to Buyer an irrevocable option during the term of this Order to purchase the goods in such quantities and on such delivery dates and times as indicated in the Releases and Seller shall deliver such quantities on such dates and times, at the price and on the other terms specified in this Order; provided that Buyer shall purchase no less than one piece or unit of each of the goods or the services and no more than one hundred percent (100%) of Buyer's requirements for the goods or the services, as applicable. All references herein to this Order shall include any Releases.

5. CANCELLATION:

Buyer may cancel this Order or any term or condition hereunder in the event of any breach by the Seller. In the event of cancellation, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for all damages, direct or indirect, consequential and incidental, including attorney's fees, sustained by reason of the default which gave rise to the cancellation, including, but not limited to, any costs incurred by Buyer as a result of obtaining goods or services from another source. Seller may not cancel any portion of an accepted Order without Buyer's prior written approval.

6. TERMINATION

Buyer may immediately terminate all or any part of this Order at any time for any reason or for convenience upon notice to Seller. Seller immediately shall, and cause its suppliers and subcontractors to, stop all work on the portion of the Order so terminated. Seller shall submit a comprehensive termination claim with sufficient supporting data to Buyer within 30 days from the effective date of termination. Seller shall submit all supporting information as Buyer shall request. If such materials are delivered to Buyer, Buyer shall pay to Seller the price for unpaid: (a) completed goods and services; and (b) actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods and services under this Order to the extent reasonable and properly allocable or apportionable under generally accepted accounting principles to the terminated portion of this Order, less the reasonable value or cost (whichever is higher) of goods or materials used or sold by Seller with Buyer's consent. Buyer shall not pay for: (a) finished goods, works-in-process or raw materials in excess of this Order or shipment releases; (b) undelivered goods which are in Seller's standard stock or that are readily marketable; (c) claims by Seller or Seller's subcontractors for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs

or rental, unamortized depreciation costs, and general and administrative burden charges arising from termination; (d) incidental, or other costs which could have been reasonably mitigated; or (e) consequential costs or damages, including attorney's fees. In no event shall Buyer's obligation to Seller for termination charges exceed the amount allowed by Buyer's customer for Seller's work. In the event of termination, Seller shall protect all property in Seller's possession or control in which Buyer or its customer has or may acquire an interest, including the Buyer's property. Buyer and its customer shall have the right to full access to Seller's premises during regular business hours in order to audit books, records, facilities, view the work, material, and inventories relating and all other relevant matters relating to any termination claim.

7. CHANGES

Buyer shall have the right to make changes in drawings, specifications or instructions for goods or services, in methods of shipments and packaging and schedules and place of delivery or inspection and Seller agrees to comply with such change notices. Such change notices shall be in writing and signed by a duly authorized representative of Buyer. If such changes result in a decrease or increase in the Seller's cost or in the time of performance, an adjustment in the price and time for performance will be made as mutually agreed. Unless Seller presents Buyer an itemized statement of claim within 20 days after the receipt of a change notice, the Seller shall be conclusively deemed to have waived all claims against Buyer with respect thereto. Seller shall not make any change in design, material specifications, manufacturing or assembly processes or source of supply without the express written approval of Buyer.

8. QUALITY AND INSPECTION

Payment for goods shall not constitute acceptance thereof. Buyer reserves the right to inspect goods during the manufacturing (and Seller shall allow access of its premises to do so) and within a reasonable time after delivery, but such inspection does not relieve the Seller of its obligations to deliver conforming goods. Buyer shall have the right, in its sole discretion, to reject goods that are defective or non-conforming. Goods so rejected as well as goods supplied early, late, in incorrect quantities or that are incorrectly labeled may be returned to Seller at its expense and, in addition to Buyer's other rights, Buyer may charge Seller all expenses of unpacking, examining, inspecting (including, but not limited to the costs of a third-party inspection service), repackaging, and re-shipping such goods (including on a freight collect basis) and, in addition, a commercially reasonable administration fee in an amount set by Buyer. If Buyer receives goods whose defects or nonconformity is not apparent on examination and this results in damage to other goods, materials, equipment, or otherwise, Buyer reserves the right to require replacement of such goods, materials, etc. as well as reimbursement for all damages incurred by Buyer and, in addition, a commercially reasonable administration fee in an amount set by Buyer. Seller shall be responsible for any additional cost incurred by Buyer or any customer of Buyer as a result of Seller's incorrect or improper delivery, quality, packaging or shipment quantities, and, in addition, a commercially reasonable administration fee in an amount set by Buyer and any compensation paid to a customer of Buyer by Buyer as a result of such defect or nonconformity.

Sellers of special machines and/or equipment must supply Buyer with two (2) instruction manuals and at least one (1) maintenance manual containing complete schematics, drawings, parts lists,

specifications, sources of supply and complete service/test instructions. All design and construction of tooling, equipment or special machines sold to, or furnished or paid for by Buyer must be in accordance with Buyer's Engineering specifications. Any engineering design changes by Seller with regards to products, tooling, equipment or special machines sold to, or furnished or paid for by Buyer require the prior written approval of Buyer. Seller will furnish Buyer with a Certificate of Insurance for personal and property liability prior to proceeding with work on Buyer's premises.

Seller acknowledges that it assumes all responsibility for ensuring, at its sole cost, that all testing and analysis as is needed to meet ISO/TS16949 or its modern equivalents or substitutes, or any other quality certification or other standards that Buyer's customer or Buyer requires on parts, components, materials, systems and processes incorporating or involving any product sold by Seller to Buyer hereunder, whether or not Seller is or has been certified as meeting such certification requirements.

9. WARRANTY

In addition to the warranties provided for in the Order, Seller represents and warrants to Buyer as follows: (a) the goods strictly conform with the specifications, drawings, instructions, advertisements, statements on containers and labels, descriptions and samples furnished or specified by Buyer, its customer or Seller; (b) the goods are free from defects in workmanship and material and shall be new and of the highest quality and the goods are merchantable; (c) the goods and materials comprising the goods are genuine in all respects; (d) Seller acknowledges that it knows of Buyer's intended use of the goods and that Buyer is relying on the Seller's skill and judgment to provide goods that will be safe, fit and provide proper functionality for Buyer's intended use; (e) the goods do not, and are not claimed to violate any patent, trademark, copyright or other intellectual property right and may be properly imported into the United States or any other country; (f) to the extent that the products being ordered and shipped bearing trademarks, the use of such trademarks has been properly authorized by the trademark owner, and such trademarks are valid and genuine; (g) Seller has good and marketable title to the goods and all components therein, free of all security interests, liens and encumbrances; and Buyer shall receive title to the goods which is free and clear of any liens, security interests or encumbrances; (h) that Seller will cure, by repair, replacement or otherwise as necessary (but will only replace goods upon receipt of Buyer's advance order to do so), any breach of warranty occurring during the warranty period (whether due to defects in the goods or due to or arising out of any statement in this Warranty Section being untrue or misleading at any time during such warranty period); and (i) the warranty period shall be that provided by applicable law, except that if Buyer offers a longer warranty to its customers (or end users), such longer period shall apply. Such warranties shall survive inspection, test, delivery, acceptance, use and payment by Buyer and shall inure to the benefit of Buyer's successors, assigns, customers and other users of Buyer's products. If Buyer permits any repaired or replacement goods, all warranties on repaired or replaced goods shall run from the delivery of the goods or services after the date of repair or replacement. Notwithstanding any other provision, and without waiving any of Buyer's remedies, in the event of defective goods or services, Buyer may, in its discretion, immediately repair or replace the defect and hold Seller responsible for all attendant costs or damages.

10. CUSTOMER REQUIREMENTS

(a) Where the goods or services under this Order are or will be sold, or incorporated into goods or services that are or will be sold, by Buyer to an original equipment manufacturer, whether directly or indirectly through an upper tier supplier, or any other third party customer (collectively, the “**Customer**” or “**OEM Customer**”), Seller shall take such steps, provide such disclosure, comply with such requirements and do all other things as Buyer deems necessary or desirable and within Seller’s control to enable Buyer to meet Buyer’s obligations under the terms and conditions of any contract or purchase order or other document (the “**Customer Terms**”) that may be applicable to Buyer from time to time in respect of its direct or indirect supply of such goods or services to the Customer, including: delivery, packaging and labeling requirements; warranties and warranty periods; intellectual property rights and indemnification; confidentiality; access to facilities and records; and replacement and service parts. Buyer may, from time to time, in its sole discretion, provide Seller with information regarding the applicable Customer Terms, but, in any event, Seller shall be responsible for ascertaining the Customer Terms that may affect Seller’s obligations hereunder and hereby agrees to be bound to such Customer Terms.

(b) If there is any conflict between the provisions of the Customer Terms and any provisions of this Order, Buyer shall have the right to have the provisions of the Customer Terms prevail to the extent necessary or desirable to resolve such conflict.

(c) In the event that the Customer directly suffers an Insolvency Event as the phrase is defined in paragraph 26 and, in the course of any proceedings relating to such Insolvency Event and in connection with actual or threatened termination by the Customer of its contract(s) with Buyer (by rejection or otherwise), Buyer permits a reduction in the prices paid to Seller for products incorporating the goods and/or the services, then the prices paid to Seller for the goods and/or the services from and after the date of such reduction will be automatically adjusted proportionally by the same percentage as the price paid to Buyer by the Customer, and this Order will otherwise remain in effect without modification.

(d) In the event Customer fails to pay Buyer for products incorporating the goods and/or services supplied by Seller, Buyer reserves the right to assign Seller the right to collect such amounts from Customer, in whole or in part, and Seller agrees to accept such assignment as payment for any invoices due from Buyer to Seller on a dollar for dollar basis.

(e) In addition to any other rights or remedies provided for in this Order, if the Customer directed, recommended or requested that Seller be the source from whom Buyer is to obtain the goods and/or the services: (i) Buyer will pay Seller for the goods and/or services only after and to the extent of, and in proportion to, Buyer’s actual receipt of payment from the Customer for those goods into which the goods and/or the services are incorporated; (ii) any lengthening of the Customer’s payment terms to Buyer for those goods into which the goods and/or services are incorporated will automatically lengthen the payment terms as between Buyer and Seller by the same amount of time; and (iii) within three (3) business days of any change in price, specifications or other terms negotiated or proposed between Seller and the Customer, Seller shall notify Buyer in writing and immediately adjust its invoices to reflect any price reduction, provided that no change will be binding on Buyer without Buyer’s specific written consent.

11. INDEMNITY

To the fullest extent permitted by law, Seller shall indemnify, defend, and hold harmless Buyer, its affiliates, directors, officers, employees, agents and customers from and against any loss, liability, costs, expenses (including reasonable attorney fees), suits, actions, recalls or claims, directly or indirectly arising out of or relating to:

- (a) a failure, violation, default or breach of any warranty, representation, covenant or agreement made in this Order by Seller;

- (b) injuries, death, disabilities or damage to property caused by Seller, its employees, agents and subcontractors or that are in any way attributable to the performance of Seller.

12. ASSIGNMENT

Seller will not subcontract any of its rights or obligations under this agreement and neither any Order nor any interest in it may be assigned, delegated or transferred in any way, directly or indirectly, including by sale, merger, acquisition, contribution or transfer of a majority of ownership of the business, without the prior written consent of the Buyer. This includes, without limitation any right of payment. Seller shall remain directly responsible for the performance of its obligations under these Terms and for any acts or omissions of any such approved third party.

13. BUYER'S PROPERTY AND BAILED PROPERTY

Seller bears all responsibility for loss of and damage to any property owned or bailed by Buyer or Buyer's customer and possessed by Seller for use in performing an Order, including responsibility for loss and damage which occur despite Seller's exercise of reasonable care, but excluding normal wear and tear. The property that is the subject of this paragraph includes, but is not limited to, any special dies, tools, jigs, fixtures, equipment, patterns, drawings or other manufacturing data (including all copies of reprints thereof), or any property used in conjunction with the goods or services such as delivery or storage bins, containers, totes or similar goods. The Seller will:

- (a) properly house and maintain in good working order and at its own expense such property on Seller's premises;

- (b) prominently mark it property of Buyer or Buyer's customer as applicable;

- (c) refrain from comingling it with property of Seller or that of a third party;

- (d) not place any marking on the property relating to Seller or file any financing statement with respect to the property;

- (e) indemnify and hold Buyer and its customer harmless from all damage caused by or to the property; and

- (f) not move or transfer the property without Buyer's written consent in advance.

Buyer or its customer shall have the right at all reasonable times, upon prior request, to enter Seller's premises to inspect any and all of Buyer's property or the property of its customer and any property or goods manufactured, developed or created with the aid of Buyer's property or the property of its customer. The Seller will not substitute any property for the Buyer's property, or the property of its customer, and will not deliver or make available to any third party, any of the Buyer's or Buyer's customer's property or any property or Products manufactured, developed or created with the aid of any of the Buyer's property or the property of its customer and will not use any of the Buyer's property or its customer's property or Products manufactured, developed or created with the aid of the Buyer's property or its customer's property, except in the filling of the Orders of the Buyer. Where permitted by law, Seller waives any lien, including any lien permitted by MCL 455.611 (molder's lien), where Seller or its affiliates might otherwise have on Buyer's or Buyer's customer's property for work done thereon or otherwise. Seller will assign to Buyer any claims Seller has against third parties with respect to Buyer's or Buyer's customer's property. Seller agrees to insure Buyer's property or the property of its customer, for its agreed upon value. Buyer shall be named as the loss payee in such policy, and Seller shall not terminate said policy without thirty days prior written notice to Buyer. Seller agrees to hold Buyer and its customer harmless for any third-party claims relating from Seller's use of Buyer's or Buyer's customer's property. In the event that this Agreement is cancelled or terminated, Seller immediately will deliver Buyer's property or Buyer's customer's property at Buyer's option "DDP – Buyer's plant", properly packed and marked in accordance with the requirements of the carrier and Buyer. Seller agrees TIME IS OF THE ESSENCE. If Seller fails to deliver Buyer's property or the property of Buyer's customer in accordance with the provisions hereof, Seller shall indemnify and hold Buyer and Buyer's customer harmless from and against all damages, costs and expenses incurred by Buyer or its customer resulting therefrom including, without limitation, attorney fees and expenses. In no event shall Seller retain the property of Buyer or its customer in the event of a dispute.

14. COMPLIANCE WITH LAWS

Seller agrees to comply with all applicable federal, state, local or foreign laws, Executive Orders, rules, regulations, conventions, ordinances or standards of the country(ies) in which any goods, shipment receiving facilities locate, in which the goods are manufactured, through which the goods are transported, or in which the goods or products thereof are intended to be used, including those that relate to the manufacture, labeling, transportation, importations, licensing, approval or certification of the goods or services, and further including but not limited to those relating to environmental matters, wages, hours, conditions of employment, subcontractor selection, discrimination, occupational safety/safety, use of minerals and substances and motor vehicle safety which may be applicable to Seller's performance of its obligations under this Purchase Order, including but not limited to:

- (a) U.S. Toxic Substances Control Act/European Directive including 2002/96/EC and 2002/95/EC regarding restrictions of certain hazardous substances;
- (b) Dodd-Frank Act regarding conflict minerals and European Regulation 1907/2007/EC regarding registration, evaluation, authorization and restriction of chemicals;

- (c) See link to Registration, Evaluation or Authorization of Chemicals (REACH) Regulation: [HTTP://ec.europa.eu/environment/chemicals/reach/reachintro.htm](http://ec.europa.eu/environment/chemicals/reach/reachintro.htm). Link to Rohs Directives: [HTTP://ec.europa.eu/environment/waste/weee/index_en.htm](http://ec.europa.eu/environment/waste/weee/index_en.htm);
- (d) Seller will enter the composition details of the products supplied, in the IMDS (International Material Data System) computer application, at www.mdssystem.com;
- (e) Anti-corruption laws, including the U.S. Foreign Corrupt Practices Act (“FCPA”) and Canadian Corruption of Foreign Public Officials Act; and
- (f) All applicable labor, equal opportunity, handicapper and Fair Labor Standards laws.

Seller shall furnish Buyer with certificates of compliance where required or when requested by Buyer. Seller further represents that neither it nor any of its contractors, if any, permitted, or will utilize slave, prisoner, or any other form of forced or involuntary labor in the supply of goods or provision of services under any Purchase Order. Any Order will incorporate by reference the provisions to follow and where the term “Contractor” is used, said clauses shall be deemed to refer to Sellers:

- (a) all provisions of 41CFR 60-1.4, as amended, pertaining to equal opportunity clause in government contracts;
- (b) all provisions of 41 CFR 60-250, as amended, pertaining to affirmative action for disabled veterans of the Vietnam Era; and
- (c) all provisions of 41 CFR 60-741, as amended, pertaining to affirmative action for handicapped workers.

Seller certifies that it is in compliance with all applicable provisions of 41 CFR 60-1, including, but not limited to:

- (a) developing and presently having full force and effect a written affirmative action compliance program for each of its establishments as required by 41 CFR 60-1.40, as amended;
- (b) filing EEO-1 reports as required by 41 CFR 60-1.7, as amended; and
- (c) neither maintaining segregating facilities nor permitting its employees to perform services at segregated facilities as prohibited by 41 CFR 60-1.8, as amended.

Buyer requests that Seller adopt and implement a policy to extend employment opportunities to qualified applicants and employees on an equal basis regardless of an individual’s age, race, color, sex, religion, sexual orientation, gender identity or national origin. All invoices for items produced or sold subject to the U.S. Fair Labor Standards Act must contain the following certification in

order to be processed for payment: We hereby certify that these goods were produced in compliance with all applicable requirements of Section 6, 7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof. Seller shall certify in writing Seller's compliance with such laws at Buyer's request.

15. INGREDIENTS, DISCLOSURES, SPECIAL WARNINGS AND INSTRUCTIONS

Seller shall promptly furnish to Buyer in such form and detail as Buyer may direct:

- (a) a list of all ingredients in the goods purchased hereunder;
- (b) the amount of one or more ingredients; and
- (c) information concerning any changes in or additions to such ingredients.

Prior to and with the shipments of the goods purchased hereunder, Seller shall furnish to Buyer sufficient warning and notice in writing (including appropriate labels on goods, containers and packing) of any hazardous material which is an ingredient or part of any of the goods, together with such special handling instructions as may be necessary to advise carriers, Buyer, its customers, and their respective employees of how to exercise that measure of care and precaution which will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packing shipped to Buyer. The goods, and any such warnings, notices and markings shall comply with the minimum requirements under all applicable laws, regulations or guidelines, including, but not limited to, the Federal Insecticide, Fungicide and Rodenticide Act, the Toxic Substances Control Act, and guidelines and regulations issued by the Environmental Protection Agency, U.S. Department of Transportation, Occupational Safety and Health Administration, Consumer Products Safety Commission, and the U.S. Food and Drug Administration. Seller shall make available and provide Material Data Safety Sheets ("MSDS" sheets) to Buyer for the first shipment of each type or item of (a) goods it supplies; (b) reformulated goods supplied; and at any other time as requested by Buyer. Seller shall mark and describe all goods for recycling in compliance with all applicable laws, and Federal Trade Commission rules and guidelines. All certification provisions of Section 14, this Section or any other certification provision in this Agreement must be met in order for Seller to be eligible for payment of any invoice.

16. TAXES

Unless prohibited by law, the Seller shall pay all federal, state and local tax, transportation tax, or other tax, including, but not limited to customs duties and tariffs which is/are required to be imposed upon the items ordered, or by reason of their sale or delivery.

17. INTERNATIONAL SHIPMENTS

- (a) Seller shall provide a signed certificate which identifies the country of origin of the goods within ten calendar days of receiving a written request from Buyer.

- (b) All Orders include all related customs duty and import drawback rights, if any, including rights developed by substitution and rights which may be acquired from Seller's suppliers, which Seller can transfer to Buyer. Seller shall inform Buyer of the existence of any such rights and upon request shall supply such documents as may be required to obtain such drawback.
- (c) Seller will perform all actions and provide all documents required to qualify the goods or products thereof for preferential or favorable treatment under any applicable tariff or treaty, including the United States-Mexico-Canada Agreement ("USCMA").
- (d) Seller will be responsible for all documentary and logistical requirements for movement of goods across international borders and shall pay all duties and fees pertaining to such movements.

18. SERVICE AND REPLACEMENT PARTS

- (a) Except as otherwise expressly agreed in writing, for fifteen (15) years after a design or specific part concludes production, Seller shall supply Buyer's written "service parts" orders for the same goods, component parts and materials, at the prices set forth in this Order plus any actual cost differential for special packaging. If the goods are systems or modules, Seller shall sell each component or part at a price that does not, in the aggregate, exceed the system or module price specified in this Order, less assembly costs, plus any actual cost differential for packaging. Seller's obligation with respect to service or replacement parts shall survive the termination or expiration of this Order.
- (b) At Buyer's request, Seller shall make service literature and other materials available at no additional charge to support Buyer's service part sales activities.

19. LABOR DISPUTES

Seller shall notify Buyer of any actual or potential labor dispute delaying or threatening to delay timely performance of this Purchase Order. Seller shall notify Buyer in writing six (6) months in advance of the expiration of any current labor contracts. Seller shall produce a supply of finished goods at least thirty (30) days prior to the expiration of any such labor contract, in quantities and for storage at Seller's expense at sites designated by buyer.

20. DEMAND FOR ADEQUATE ASSURANCE

Given the critical nature for Buyer to be able to supply its customer(s) with goods on a "just in time" basis, should Buyer reasonably determine itself to be insecure with the Seller's performance, the Seller shall provide Buyer with written assurance of performance within forty-eight hours of a written demand by Buyer. It is understood that this is a material provision of the relationship between the parties. This provision supersedes the normal time periods associated with a demand for adequate assurance as provided for in Section 2-609 of the Uniform Commercial Code.

21. REQUEST FOR FACTS, DOCUMENTS AND INFORMATION

Unless otherwise provided in writing, or as set forth herein, all Purchase Orders issued by Buyer to Seller shall be on a fixed price basis. Buyer shall be under no obligation during the course of

performance to vary its price terms in the event Seller experiences material increases in prices for labor, material or otherwise. Should the Seller request a price increase however, Seller shall:

- (a) provide to Buyer in writing with all background facts as to the reason for the request; and
- (b) make its books and records available for a viewing by Buyer so that it may verify the cost of goods or the claimed reason for the price increase.

This provision may be specifically enforced by a court with jurisdiction over the transaction(s) at issue.

22. REMEDIES

Buyer's remedies shall be cumulative, and remedies specified herein do not exclude any remedies allowed in law or equity. Waiver of any breach shall be specified in writing by Buyer's authorized representative and shall not constitute waiver of any other breach of the same or other provision. Acceptance of any items or payment therefor shall not waive any breach. Non-assertion of a known breach does not constitute a waiver of same. In addition to any right of set off provided by law, Buyer may assert against this Order all amounts due to Seller or its affiliates from Buyer or its affiliates. **UNDER NO CIRCUMSTANCES SHALL BUYER BE LIABLE TO SELLER FOR CONSEQUENTIAL DAMAGES INCLUDING LOST PROFITS.** In the event of any dispute with or breach by Seller, Buyer shall be entitled to an award of all of its reasonable attorney fees and costs, including, but not limited to those awardable under the applicable court rules or statutes. In case of any dispute regarding between Buyer and Seller, Seller agrees to continue to ship the goods or provide the services included in any Order for a reasonable length of time, but no less than 180 days following such written notice of a dispute, to give Buyer and Seller the opportunity to resolve the dispute. In the event of Seller's failure to continue supplying goods or services, Buyer shall, in addition to all other remedies stated herein or which it would be entitled to under applicable law, be entitled to specific performance of Seller's obligation, including, but not limited to an ex parte temporary restraining order or preliminary injunction ordering Seller to comply with its obligations owed to Buyer.

23. SETOFFS; RECOUPMENT

In addition to any right of setoff or recoupment provided by law, all amounts due to Seller will be considered net of indebtedness of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries. Buyer will have the right to setoff against or to recoup from any payment or other obligation owed to Seller, in whole or in part, any amounts due to Buyer or its affiliates or subsidiaries from Seller or its affiliates or subsidiaries. Buyer will provide Seller with a statement describing any offset or recoupment taken by Buyer.

24. TORT OBLIGATIONS

Buyer's rights and Seller's obligations under this Order shall not limit in any way whatsoever Seller's common law tort obligations or Buyer's right to sue in tort in addition, or as an alternative,

to suing in contract. Seller hereby waives the right to sue in tort in respect of any matter that is addressed, in whole or in part, by the terms and conditions of this Order.

25. INSURANCE:

If this Order covers the performance of labor for Buyer, Seller agrees to indemnify and protect Buyer against all liabilities, claims or demands for injuries or damage to any person or property arising out of the performance of this contract by Seller, its servants, employees, agents or representatives. Seller further agrees to furnish upon Buyer's request an insurance carrier's certificate showing that Seller has adequate Workman's Compensation, Public Liability and Property Damage Insurance coverage. Such certificate shall set forth the amount of coverage, number of policy and date of expiration. If Seller is a self-insurer, the certificate of the appropriate state agency must be sent directly to Buyer. The purchase of such insurance coverage on the furnishing of the certificate shall not be in satisfaction of Seller's liability hereunder or in any way modify Seller's indemnification of Buyer.

26. INSOLVENCY

Buyer or a third party designated by Buyer may at any time review the financial condition of Seller and its affiliates, and Seller will fully cooperate in such review and will promptly provide copies of or access to requested documents, including without limitation, financial records and statements, forecasts, business plans, banking contacts and loan documents, and will make its financial managers available for discussions during reasonable business hours. Buyer and any designated third party will keep confidential any non-public information about Seller obtained in the financial review and use such information only for purposes of review, except as needed to enforce the Order. Buyer may forthwith cancel the contract resulting from the acceptance of this Order in the event of the happening of any of the following, or of any other comparable event (sometimes referred to herein as an "**Insolvency Event**"):

- (a) insolvency of the Seller;
- (b) the filing of a voluntary petition in bankruptcy;
- (c) the filing of an involuntary petition to have Seller declared Bankrupt, provided it is not vacated with thirty (30) days from the date of filing;
- (d) the appointment of a Receiver or Trustee for Seller (provided such appointment is not vacated within thirty (30) days from the date of such appointment); or
- (e) the execution by Seller of an assignment for the benefit of creditors.

27. CONFIDENTIALITY

Seller shall keep confidential and not use for any purpose other than fulfilling Seller's obligations hereunder all information, drawings, specifications, inventions, engineering notices, financial information, technical data or other data furnished by Buyer, including any personnel data, all of

which shall be returned to Buyer upon demand or upon completion by Seller of its obligations hereunder. Seller shall not advertise or publish the fact that the Seller has contracted to furnish Buyer goods or services or use any trademarks or trade names of Buyer in Seller's advertising or promotional materials without the written consent of the Buyer. Seller agrees not to solicit Buyer's employees with which it had contact as result of the Order or agreement with Buyer. These provisions shall remain in full force and effect during the relationship between the parties and for a period of at least two years beyond the last date that any goods or services are provided under any Purchase Order or sale document.

28. INTELLECTUAL PROPERTY:

- (a) Seller shall indemnify and hold Buyer, its subsidiaries and affiliates, their respective successors and assigns, its customers and users of products containing the goods or the services, harmless from and against all liabilities, demands, claims, losses, costs, damages and expenses of any nature or kind (including court costs and legal and other professional fees) arising from or as a result of the infringement or alleged infringement of any patent, trademark, copyright, industrial design or process of manufacture for or on account of the manufacture, sale or use of the goods or the services, or of the products containing the goods or the services. Seller expressly waives any claim against Buyer that any such infringement or alleged infringement arises out of compliance with Buyer's specifications. Buyer shall notify Seller of any suit filed against Buyer, its subsidiaries and affiliates, their respective successors and assigns, the customers or users of products containing the goods or the services, on account of any such infringement or alleged infringement and, at Seller's request, shall give Seller control of the defense of such suit, insofar as Buyer has the authority to do so, and reasonable information and assistance in connection therewith, all at Seller's expense. Buyer and other indemnified parties shall have the right to be represented by their own counsel and actively participate in any such suit, and the reasonable costs of such representation shall be paid by Seller on demand.
- (b) Seller hereby grants to Buyer, its subsidiaries and affiliates, and their respective successors and assigns, and Buyer hereby accepts, a non-exclusive, irrevocable, worldwide license, including the right to sublicense to others in connection with providing the goods or the services to Buyer or its customers, under:
 - (i) patents, industrial designs, technical information, know-how, processes of manufacture and other intellectual property, owned or controlled by Seller or its affiliates, and relating to the goods or the services, to make, have made, repair, reconstruct, rebuild, relocate, use, sell and import the goods and the services, and
 - (ii) any works of authorship fixed in any tangible medium of expression (including drawings, prints, manuals and specifications) furnished by Seller in the course of Seller's activity under this Order, to reproduce, distribute and display such works and to prepare derivative works based thereon, subject to the other provisions of this Order (all items in clauses (i) and (ii) above, collectively, "**Seller's Intellectual Property**," and such license in respect thereof, the "**License**").

- (c) Seller acknowledges and understands that the License shall be effective from the first date of delivery of the goods or the services under this Order and extend for so long as Buyer has contractual obligations to the Customer.
- (d) To the extent that Seller creates or develops any patents, industrial designs, technical information, know-how, processes of manufacture or other intellectual property in the performance of Seller's obligations under this Order, Seller shall:
 - (i) assign to Buyer each invention, discovery or improvement (whether or not patentable) that is conceived or first reduced to practice by Seller, or by any person employed by or working under the direction of Seller, in the performance of Seller's obligations under this Order, and
 - (ii) promptly disclose in an acceptable form to Buyer all such inventions, discoveries or improvements and cause Seller's employees to sign any papers necessary to enable Buyer to obtain title to and to file applications for patents throughout the world. To the extent that any works of authorship (including, without limitation, software and computer programs) are created in the performance of Seller's obligations under this Order, such works shall be considered "**works made for hire**," and to the extent that such works do not qualify as works made for hire, Seller hereby assigns to Buyer all right, title, and interest in all copyrights and moral rights therein.
- (e) Seller shall not manufacture or provide, or offer for manufacture or provide, any goods or services that are based in whole or in part upon Buyer's intellectual property and/or the drawings or specifications in respect of the goods or the services, or any derivative thereof, whether for its own purposes (other than to satisfy its obligations under this Order), for any other third parties, without Buyer's prior written consent. The foregoing restriction shall not apply in respect of "off-the-shelf" or "catalogue" goods or services that have been routinely manufactured or provided by Seller and developed by Seller, in each case prior to this order and independently of its relationship with Buyer.

29. AUDIT RIGHTS; INSPECTION OF SELLER'S PREMISES

Seller grants Buyer access to Seller's premises and books and records solely for the purpose of auditing Seller's compliance with the terms of the Order or any agreement (including, without limitation, charges under the Order or any agreement) or inspecting or conducting an inventory of finished goods, work in progress, raw materials, any of Buyer's property and all work or other items to be provided pursuant to the Order or any agreement located at Seller's premises. Seller will cooperate with Buyer so as to facilitate Buyer's audit, including, without limitation, by segregating and promptly producing such records as Buyer may reasonably request, and otherwise making records and other materials accessible to Buyer. Seller will preserve all records pertinent to the Order or any agreement, and Seller's performance under the Order or any agreement, for a period of not less than one year after Buyer's final payment to Seller under this contract. Any such audit or inspection conducted by Buyer or its representatives will not constitute acceptance of any

goods (whether in progress or finished) relieve Seller of any liability under the Order or any agreement, or prejudice any rights or remedies available to Buyer.

30. BUYER'S WEBSITE

- (a) Buyer's internet website (or such other website as may be directed through links available on such website) as specified on the face of any Order ("**Buyer's Website**") or Paragraph 1 of these Terms may contain specific additional requirements for certain items covered by this Order, including, but not limited to: labeling, packaging, shipping, delivery and quality specifications, procedures, directions and/or instructions. Any additional requirements shall be deemed to form part of the Terms and this Order. Buyer may periodically update such requirements by posting revisions thereto on Buyer's Website. In the event of any inconsistency between this Order and Buyer's Website, the terms of this Order shall prevail, unless the requirements specified in Buyer's Website expressly provide otherwise.
- (b) Buyer may modify these Order Terms from time to time by posting revised Order Terms to Buyer's Website. Such revised Order Terms shall apply to all Orders and Order revisions issued on or after the effective date thereof. Seller shall review Buyer's Website periodically.

31. FORCE MAJEURE

Any delay or failure of either party to perform its obligations under the Order or any agreement will be excused to the extent that Seller is unable to produce, sell or deliver, or Buyer is unable to accept delivery, buy or use, the goods or services covered by the Order or any agreement, directly as a result of an event or occurrence beyond the reasonable control of such party, without such party's fault or negligence (a "**force majeure event**"), including, if applicable, actions by any governmental authority (whether valid or invalid), fires, floods, pandemics, windstorms, explosions, riots, national disasters, war and sabotage or acts of terrorism; provided that written notice of such force majeure event (including the anticipated duration of the delay) must be given by the affected party to the other party as soon as possible (but in no event more than 10 days after the force majeure event occurs). During the force majeure event affecting Seller's performance, Buyer may, at its option, purchase goods or services from other sources and reduce its delivery schedule to Seller by such quantities, without liability to Seller, or require Seller to provide goods or services from other sources in quantities and at times requested by Buyer at the price set forth in the Order or any other agreement. Seller will use all diligent efforts to ensure that the effects of any force majeure event are minimized and, as promptly as possible, resume full performance under this contract. If requested by Buyer in writing, Seller will, within five days after Buyer's request, provide adequate assurances that the delay in the Seller's performance resulting from such event will not exceed 30 days. If the delay lasts more than 30 days or Seller does not provide such adequate assurances, Buyer may immediately terminate the Order without liability to Seller.

32. SEVERABILITY

Should any provisions of this contract be declared or be determined by a court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms or provisions shall

not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this contract.

33. INCONSISTENT TERMS

Terms that are typed or applied by rubber stamp on an Order supersede any conflicting printed provisions and handwritten terms on an Order govern over typed, rubber stamped or printed terms.

34. GOVERNING LAW AND CHOICE OF FORUM

This agreement shall be construed and governed in accordance with the internal laws of the State of New York, including the Uniform Commercial Code, without regard to conflict of laws provisions. The U.N. Convention on Contracts for the International Sale of Goods shall not apply. Any litigation and all dispute resolution proceedings shall be brought and maintained only in the United States District Court for the Southern District of New York or in a state court located within the Borough of Manhattan, city of New York, State of New York.

35. WAIVER OF JURY TRIAL

BUYER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF BUYER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO TRIAL BY JURY AND ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY ORDER OR OTHER DOCUMENT PERTAINING TO ANY ORDER OR THE RELATIONSHIP BETWEEN THE PARTIES.

36. EXECUTION AND EXCHANGE OF DOCUMENTS:

Any documents that are required under the Order may be issued or returned electronically and executed via electronic means and in one or more counterparts, which counterpart shall be effective upon the execution of all necessary parties of one or more such counterparts. Facsimile and/or fax signatures shall be deemed to be of the same force and effect as original signatures and may be accordingly relied upon by the parties.