



## PURCHASE ORDER TERMS AND CONDITIONS - COMMERCIAL

### THESE TERMS AND CONDITIONS FORM PART OF UTS SYSTEMS, LLC PURCHASE ORDERS FOR COMMERCIAL PRODUCTS AND SERVICES.

#### 1. DEFINITIONS:

"Buyer" means UTS Systems, LLC, who is purchasing Products or Services under the Contract.

"Contract" means the agreement between Buyer and Seller governing the purchase of Products and/or Services by Buyer from Seller. Buyer's Purchase Order, these Terms and Conditions, and the Quotation (if one is issued by Seller) constitute the Contract.

"Products" or "Goods" mean the equipment, parts, materials, supplies, and other goods that Seller has agreed to supply under the Contract. References in these Terms and Conditions to the purchase and sale of Products may mean, where applicable, the licensing of Software loaded on or provided with the Products.

"Quotation" means Seller's statement identifying the Products and Services, together with any quantity, price, delivery schedule, and/or other terms and conditions (in addition to or different from these Terms and Conditions), offered by Seller for sale to Buyer. A Quotation that incorporates these Terms and Conditions by reference shall be deemed to include these Terms and Conditions, whether or not Buyer provides a complete copy of these Terms and Conditions to Seller with the Quotation, with a purchase order acknowledgement, or with an invoice. Where there is a conflict between these Terms and Conditions and provisions of the Quotation, these Terms and Conditions shall control.

"Services" means the services that Seller has agreed to provide under the Contract. "Software" means software loaded on or provided with the Products.

"Seller" means the legal entity supplying Products and/or providing Services under the Contract.

"Terms and Conditions" means these "Purchase Order Terms and Conditions - Commercial."

#### SECTION A - INSTRUCTIONS TO SELLER

- A. PURCHASE ORDER NUMBER:** Seller shall include Buyer's purchase order number, including any revision designation, on all invoices, packing lists, bills of lading, packages, containers, and correspondence processed under this purchase order.
- B. PACKING LIST:** A packing list shall accompany each shipment of goods and, if such shipment completes the purchase order, shall show thereon: "This shipment completes this purchase order."
- C. PACKAGING AND INSURANCE:** No extra charge for packaging or insurance shall be allowed unless agreed upon and incorporated in the purchase order. Goods shall (i) be packaged to ensure safe arrival at destination, (ii) be described to conform to carrier's classification rules to obtain lowest transportation cost, and (iii) not be insured nor show declared value for shipment beyond FOB point.
- D. INVOICES:** Invoices must be emailed to the Accounts Payable address shown on the face of the purchase order and reference the full purchase order number to ensure proper payment. Supplier payments will only be made to the remit address recorded in your UTS Systems, LLC supplier profile as provided at the time of award. If this address does not match the remittance address requested on your invoice your payment may be delayed. If you are uncertain of the remit address we have on record for your company, you should contact the buyer or procurement office as soon as possible.
- E. DISCOUNTS:** If a prompt payment discount is negotiated, its terms will be specifically identified in the individual purchase order.



## SECTION B – STANDARD CLAUSES

1. **SELLER ACCEPTANCE:** This purchase order is to be accepted in writing by Seller. If, however, for any reason Seller should fail to accept in writing, any conduct by Seller which recognizes the existence of a contract pertaining to the subject matter shall constitute acceptance by Seller of this purchase order and all of its terms and conditions.

Any terms proposed in Seller's acceptance of Buyer's offer which add to, vary from, or conflict with the terms herein are hereby objected to. Any such proposed terms shall be void and the terms herein shall constitute the complete and exclusive statement of the terms and conditions of the contract between the parties and may hereafter be modified only by written instrument executed by the authorized representatives of both parties.

If this purchase order has been issued by Buyer in response to an offer, and if any of the terms herein are additional to or different from any terms of such offer, then the issuance of this purchase order by Buyer shall constitute an acceptance of such offer subject to the express conditions that Seller assent to such additional and different terms herein and acknowledge that this purchase order constitutes the entire agreement between Buyer and Seller, and Seller shall be deemed to have so assented and acknowledged unless Seller notifies Buyer to the contrary in writing within 10 days of receipt of this purchase order.

2. **DELIVERY:** Time is of the essence in the performance of this purchase order by Seller. Delivery is to be made both in quantities and at times specified herein. If Seller's delivery shall fail to meet schedule, Buyer, without limiting its other rights or remedies, may direct expedited routing, and any excess cost incurred thereby shall be debited to Seller's account. Buyer shall not be liable for Seller's commitments or production arrangements in excess of the amount, or in advance of the time, necessary to meet Buyer's delivery schedule. Goods delivered in advance of schedule may, at Buyer's option, (i) be returned at Seller's expense for proper delivery, (ii) have payment therefore withheld by Buyer until the date that goods are scheduled for delivery, or (iii) be placed in storage for Seller's account until delivery date specified herein.
3. **INSPECTION AND TEST:** All goods purchased hereunder shall be subject to inspection and test by Buyer to the extent practicable at all times and places, including the period of manufacture if the goods are to be specifically manufactured for Buyer in accordance with drawings, designs, or specifications furnished by Buyer, and in any event prior to acceptance. Such goods shall be subject to final inspection and to acceptance by Buyer after delivery to Buyer.

If the goods are to be specifically manufactured for Buyer in accordance with drawings, designs, or specifications furnished by Buyer: (1) Seller shall provide and maintain an inspection and quality control system acceptable to Buyer and provide access to Seller's facilities at all reasonable times for inspection by Buyer's agents or employees, and shall provide all tools, facilities, and assistance reasonably necessary for inspection relating to the performance of this purchase order; and (2) Seller shall maintain adequate and authenticated inspection and test documents which relate to work performed under this purchase order for a period of three years after completion of this purchase order or as otherwise specified in this purchase order, and shall make such records available to Buyer upon request; and (3) Seller shall supply Buyer with inspection and test reports, affidavits, certifications, or any other documents as may reasonably be requested by Buyer.

4. **NON-CONFORMING GOODS:** If the goods purchased herein fail to meet the specifications or otherwise do not conform to the requirements of this purchase order, Buyer shall have the right to reject such goods. Goods that have been delivered and rejected may be returned to Seller for replacement, correction, reimbursement, or credit as Buyer may direct. If, after notice, Seller fails to promptly replace or correct such rejected items, same may be replaced or corrected (without thereby exercising wrongful ownership) by Buyer at the expense of Seller. Any goods rejected by Buyer shall be at Seller's risk and expense, and such goods shall not thereafter be tendered for acceptance unless the former rejection or requirement for correction is disclosed. Packaging and handling expense incidental thereto and applicable transportation cost shall be charged to Seller's account. Upon non-acceptance, repudiation or rejection of any goods, Buyer shall not be liable for any profit Seller would have made, nor for incidental damages. For non-conformances discovered prior to shipment or delivery, Seller shall contact Buyer as soon as the non-conformance is known, to determine the disposition of identified non-conformances. Unless otherwise expressly granted in writing by Buyer, no relief in the established delivery schedule shall accrue by virtue of Seller having notified Buyer of the non-conformance.
5. **WARRANTY OF GOODS AND SERVICES:** Seller expressly warrants that all goods and services covered by this purchase order shall conform to the specifications, drawings, samples or other description upon which this purchase order is based, shall be fit and sufficient for the purposes intended, merchantable, of good material and workmanship and free from defects, and shall be free of any claim of any third party. Inspection, test, acceptance or use of the goods furnished hereunder shall not affect the Seller's obligation under these warranties, and such warranties shall survive inspection, test, acceptance, and use.



Seller agrees to replace or correct defects in any goods or services not conforming to the foregoing warranties promptly, without expense to Buyer, when notified of such nonconformity by Buyer. In the event of failure by Seller to correct defects in or replace nonconforming goods or services promptly, Buyer, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by Buyer thereby. Buyer's approval of any sample or acceptance of any goods shall not relieve Seller from responsibility to deliver goods and to perform services conforming to specifications, drawings, and descriptions.

None of the remedies available to Buyer for the breach of any of the foregoing warranties may be limited except to the extent and in the manner agreed upon by Buyer in a separate agreement specifically designating such limitation and signed by an authorized representative of Buyer. Buyer's inspection and/or acceptance of and/or payment for goods and/or services shall not constitute a waiver by it of any warranties. These warranties shall run to Buyer, its successors, assigns, and customers, and users of its products.

6. **DRAWINGS AND SPECIFICATIONS REVIEW:** If, during the term of this purchase order, Buyer representatives review drawings, specifications, or other data developed by Seller in connection with this purchase order and make suggestions or comments or approve such documents and data, such action is only an expression of opinion by Buyer and shall not serve to relieve Seller of any responsibility for the reliability, quality, rate of output, cost, delivery, performance, or any other requirements of this purchase order.
7. **PROPRIETARY DRAWINGS AND DATA:** Seller shall keep confidential all information, drawings, specifications, or data and return, upon request, all documents furnished by Buyer, and shall not divulge or use such information, drawings, specifications, or data for the benefit of any other party. Except as required for the efficient performance of this purchase order, Seller shall not make copies or permit copies to be made without the prior written consent of Buyer. Seller shall thereafter make no further use, either directly or indirectly, of any such data or any information derived therefrom without obtaining Buyer's written consent. The obligations of this clause shall survive the completion, cancellation, or termination of this purchase order.
8. **USE OF INFORMATION:** Seller agrees (i) that all information heretofore or hereafter furnished or disclosed to Buyer by Seller, in connection with the placing or filling of this purchase order, is furnished or disclosed as a part of the consideration for this purchase order; (ii) that such information is not, unless otherwise agreed to by Buyer in writing, to be treated as confidential or proprietary; and (iii) that Seller shall assert no claims (other than for patent infringement) by reason of the use or disclosure of such information by Buyer, its assigns, or its customers. No employee of Buyer has the authority to make an agreement providing for the confidential treatment of, or limiting the use or disclosure of, information so furnished or disclosed, unless such agreement is made in writing and signed by Buyer's cognizant general manager. However, if this clause should conflict with the provisions of any patent rights or data rights clause of this purchase order, the latter shall prevail.

Any unpatented knowledge or information concerning Seller's products, methods, or manufacturing processes which Seller may disclose to Buyer incident to the manufacture of goods covered by this purchase order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as part of the consideration for this purchase order, and Seller agrees not to assert any claim against Buyer by reason of Buyer's use or alleged use thereof and, if this purchase order involves research or development work, Seller agrees to grant to Buyer an irrevocable, exclusive, royalty-free license to make, have made, use, and sell any inventions resulting from that work under this purchase order.

9. **DISCLOSURE OF INFORMATION:** Seller shall not in any manner advertise or publish the fact that it has furnished, or contracted to furnish, Buyer the goods or services herein described without prior written consent of Buyer. Seller shall not disclose any details in connection with this purchase order to any party except as may be otherwise provided.
10. **TOOLING AND OTHER ARTICLES:** Unless otherwise specified in this purchase order, all tooling and all other articles required for the performance hereof shall be furnished by Seller and shall be properly maintained, calibrated, and replaced when necessary at Seller's expense.

If Buyer agrees to pay Seller for such tooling and other articles, either separately or as a stated part of the unit price of goods purchased herein, title to same shall pass to Buyer upon (i) commencement of processing for use in performance of this purchase order, or (ii) Buyer payment therefore, whichever occurs first. Any such tooling and other articles which are Buyer's property shall be used only in the performance of this purchase order unless otherwise provided in writing by Buyer. Seller agrees to follow normal industrial practice in the preparation and



maintenance of pertinent property control records and shall make such records available for inspection by Buyer at all reasonable times. After completion or termination of this purchase order and upon the request of Buyer, Seller shall furnish a list of such Buyer's property in the form requested by Buyer and shall make such available for disposition by Buyer. Buyer may, at its sole discretion and by written notice, divest itself of title in favor of Seller.

**10. EXPORT RELATED REQUIREMENTS:**

- (a) **Export Compliance.** Seller is advised that its performance of this purchase order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 – 2420 (Export Administration Act) and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either 1) a U.S. Person as that term is defined in the Export Laws and Regulations, or 2) that it has disclosed to Buyer's Representative in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and US immigration status. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued thereunder.
- (b) **Foreign Personnel.** Seller shall not give any Foreign Person access to Technical Data or software as those terms are defined in the applicable Export Laws and Regulations without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Buyer in response to Seller's request under this paragraph b shall relieve Seller of its obligations to comply with the provisions of paragraph (a) or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph a, nor constitute consent for Seller to violate any provision of the Export Laws and Regulations.
- (c) **Indemnification.** Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorney's fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with the provisions of this Clause No. 11 and breach of the warranty set forth in paragraph a. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this Clause No. 11 shall be a material breach of this purchase order.
- (d) **Purchase Orders.** The substance of this Clause No. 11 shall be incorporated into any purchase order issued by the Seller for the performance of any part of the work under this purchase order.

**11. INDEMNIFICATION:** Seller shall indemnify, defend, and hold harmless Buyer and Buyer's Affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives (the "Buyer Indemnitees") from all demands, claims, actions, causes of action, proceedings, suits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses (including fees and disbursements of counsel) of every kind asserted by third parties (each a "Claim," and, collectively "Claims") asserted against Customer Indemnitees based upon: a) Personal Injury (including, death) or property damage to the extent any of the foregoing is proximately caused either by Seller's manufacturing processes, or by the negligent or willful acts of Seller or its officers, employees, subcontractors or agents; or b) Intellectual Property Infringement as addressed in Clause 29 herein.

**12. BUYERS PROPERTY:** Title to all property furnished to Seller by Buyer or paid for by Buyer shall remain with Buyer. Seller shall not alter or use such property for any purpose or for any other party other than that specified by Buyer, without the prior written consent of Buyer. Seller shall keep adequate records, which shall be made available to Buyer upon request, and shall store, protect, preserve, repair, and maintain such property in accordance with sound industrial practice, all at Seller's expense.

If Buyer's property becomes lost or damaged to any extent for any cause while in Seller's possession, Seller agree to replace or repair such property, at Seller's expense, in accordance with Buyer's request. At the completion or any termination of the work for the goods or services for which Buyer's property was required, Seller shall request disposition instructions for all such property, or the remainder thereof, and whether in its original form or in semi processed form. Seller shall make such property available to Buyer per Buyer's request, including preparation, packaging, and shipping as directed. Expense for preparation for shipment shall be for Seller's account and shipment shall be made FOB Seller's plant. Buyer may, at its sole discretion and by written notice, divest itself of title in favor of Seller.



13. **COMPLIANCE WITH LAWS:** Seller shall, in the performance of work or services under this purchase order, fully comply with all applicable federal, state, or local laws, rules, regulations, or ordinances, including but not limited to the U.S. Foreign Corrupt Practices Act ("FCPA").
14. **RELATIONSHIP OF THE PARTIES:** The relationship of Seller to Buyer shall be that of an independent contractor and nothing herein contained shall be construed as creating any employer/employee, agency, or other relationship of any kind. Seller's employees, agents or representatives (hereinafter "Employees") performing Services under this purchase order shall at all times be under Seller's direction and control. Seller shall pay all wages, salaries, and other amounts due its Employees in connection with this purchase order and shall be responsible for all reports and obligations for its Employees, including, but not limited to, social security and income tax withholdings, unemployment compensation, worker's compensation, and equal employment opportunity reporting.

This engagement shall not involve any service performed in connection with (1) marketing or marketing related activities, (2) development or implementation of business or program strategies, or (3) situations where a consultant may have contact with representatives of the U.S. Government on behalf of, or which may be perceived to be on behalf of UTS Systems, LLC, or services that include (4) lobbying, or (5) international services.

15. **SELLER'S EMPLOYEES:** All personnel assigned by Seller to perform the Services to be furnished hereunder shall be capable, skilled, qualified and competent to perform such Services. Buyer may require Seller to remove from its or customer's premises any employee, agent, or representative of Seller, or any of its purchase orders, Buyer deems incompetent, careless or negligent.
16. **BADGES AND PLANT SECURITY:** If this purchase order requires Seller's personnel to enter Buyer's or Buyer's customer's premises, Seller agrees to abide by and comply with, and require its Employees to abide by and comply with, such rules and regulations pertaining to plant security as may be prescribed by Buyer and/or the Buyer's Customer.
17. **CONFLICT OF INTEREST:** Seller warrants that no conflict of interest exists between the Services and Products to be provided under this purchase order and Seller's other activities. Seller shall immediately advise Buyer of any such conflict of interest or potential conflict of interest which arises during performance of this purchase order which arises during performance of this purchase order.
18. **INSURANCE:** Buyer, at its option, may require Seller to furnish evidence of insurance reasonably satisfactory to Buyer covering the liabilities provided under this section but no acceptance of such evidence by Buyer shall be deemed a waiver or release of such liabilities. Seller shall maintain the following insurances: (1) Worker's or Workmen's Compensation Insurance within statutory limits and in accordance with the law of the relevant state, including All State and Voluntary Compensation endorsement; (2) Employer's Liability Insurance with a limit of \$1,000,000; (3) Comprehensive General Liability Insurance, including (i) Operations and Premises Liability (with elevator liability), (ii) Contractor's Protective Liability, (iii) Completed Operations and Product Liability (maintained in effect for a period of five years after the date of final payment), (iv) Personal Injury Liability, (v) Contractual Liability, and (vi) Broad Form Property Damage Liability (including for completed operations), on an occurrence basis in an amount of a combined single limit of not less than \$1,000,000 per occurrence; and (4) Comprehensive Automobile Liability Insurance, including (i) personal injury and (ii) property damage, to cover (a) owned automobiles, (b) automobiles under long-term lease, (c) hired automobiles, (d) employer's non-ownership liability, (e) medical payments, and uninsured motorists, in the amount of a combined single limit of not less than \$1,000,000 per occurrence.

Such insurance coverage as is required under this purchase order shall be in a form and with insurance carriers satisfactory to Buyer and without additional cost to Buyer as a price adjustment, unless otherwise expressly provided for elsewhere within this purchase order. Such insurance shall protect (i) Seller, (ii) Buyer, (iii) any other party expressly designated by Buyer elsewhere within this purchase order, from claims that arise out of or result from operations by (i) Seller under this purchase order, or (ii) any lower-tier purchase order(s) of Seller, or (iii) anyone directly or indirectly employed by any of them, or (iv) anyone for whose acts any of them may be liable.

If required by Buyer as a condition of this purchase order, Seller shall have all liability insurance required under this purchase order amended or endorsed to name Buyer as an additional insured and to indicate that, with respect to the additional insured, there shall be severability of interest. As evidence of said coverage, Seller shall forward certificates of insurance, or copies of insurance policies, to Buyer, which instruments shall contain provisions requiring notification of Buyer in writing of any cancellation, nonrenewal of said coverage, or material change not less than thirty days before its affectivity.



- 19. SERVICE RATES AND INVOICING:** The rates for straight time and overtime work, which Seller will bill Buyer, for Services furnished under this purchase order, shall be those set forth in this purchase order. Buyer shall make no payment for work performed during holiday, or other overtime periods, unless such work is expressly authorized by Buyer. Seller represents that the rates set forth in this purchase order include all profit, wages, salaries, overhead, taxes, and other costs and expenses. Unless otherwise specified, Seller shall submit an invoice to Buyer's procurement representative at the location identified on the face of this purchase order and shall include: purchase order number, item number, part number (if applicable), and a brief description of the Service or Product.

Seller shall also provide such evidence as Buyer may reasonably require in support of the invoice. No invoice shall be issued prior to completion of Services or shipment of Products. Payment due dates, including discount periods, will be calculated from the date of acceptance of Service or Product, or receipt of correct invoice, whichever is later. Payment of invoice shall not constitute approval or acceptance of Services or Products rendered. At any time prior to final payment under this purchase order, Buyer may have invoices audited as to validity. Payment of Seller's invoices shall be subject to adjustment for any amounts found upon audit or otherwise to have been improperly invoiced.
- 20. TAXES:** Seller's prices shall be inclusive of any federal, state, or local sales, use, or excise taxes levied upon, or measured by, the sale, the sales price, or use of goods required in the performance of this purchase order. Seller shall list separately on its invoice any such tax lawfully applicable to any such goods, and payable by Buyer, with respect to which Buyer does not furnish to Seller lawful evidence of exemption. Seller shall comply with any reasonable request by Buyer regarding payments under protest, and regarding any refunds, claims, litigation, or proceedings with respect to any such taxes and shall make appropriate adjustments to afford Buyer the benefit of any refund or reduction in such taxes.
- 21. LIMITATION OF PAYMENTS:** ( For Time and Material purchase orders only): Seller shall not exceed the total funded ceiling amount of this purchase order unless increased in writing by Buyer. Seller shall not supply services for any period beyond that authorized by Buyer in writing. All work performed beyond the stated expiration date listed in the purchase order will be at the Seller's "own risk". No legal liability on the part of Buyer may arise until the Seller receives written notice from the Buyer that the period of performance has been extended and funding is available. Buyer shall not be obligated to pay Seller for any amount of work not performed by personnel in the labor categories set forth within the purchase order.
- 22. REMEDIES:** Each of the rights and remedies reserved by Buyer in this purchase order shall be cumulative and additional to any other or further remedies provided in law or equity or in this purchase order. A waiver of a breach of any provision hereof shall not constitute a waiver of any other breach.
- 23. ASSIGNMENT:** This purchase order or any interest therein, including any claims for monies due or to become due with respect thereto, may only be assigned upon the written consent of Buyer. Any payment to any assignee of any claim under this purchase order, in consequence of such consent, shall be subject to set-off, recoupment, or other reduction for any claim that Buyer may have against Seller.
- 24. NOTICE OF LABOR DISPUTES:** Whenever Seller has knowledge that any actual or potential labor dispute is delaying, or threatens to delay, the timely performance of this purchase order, Seller shall immediately give written notice thereof, including all relevant information with respect thereto, to Buyer.
- 25. GOVERNING LAW AND JURISDICTION:** This purchase order, and the acceptance thereof, shall be a contract made in the Commonwealth of Virginia, and shall be governed by and construed according to the laws thereof if to be wholly performed within such state, without regard to its conflicts of law principles. The parties specifically exclude from application to this Agreement the United Nations Convention on Contracts for the International Sale of Goods. The sole and exclusive forum for litigation permitted under this Agreement will be the state or federal courts within the geographic bounds of the Virginia Eastern District Court, U.S.A (the "Courts"), and each Party irrevocably submits to the jurisdiction of the Courts for the litigation of such Disputes, and irrevocably waives and agrees not to assert any claim or defense that the Party is not subject to the jurisdiction of the Courts, that the Courts are an inconvenient forum or an improper venue. Each Party shall bear their own attorneys' fees and costs expended in connection with dispute resolution.
- 26. DELAY - FORCE MAJEURE:** Neither party shall be responsible to the other party for any delay in performing its obligations under this purchase order due to any events of force majeure, except as otherwise provided for within this clause. Force majeure means any act of God, war, act or failure to act of any government in its sovereign capacity, fire, flood, earthquake, strike, epidemic, quarantine, embargo, nuclear incident, or any other act beyond reasonable control and without the fault of either party or its agents. The party whose performance of obligations hereunder has been affected by any events of force majeure shall notify the other party within five calendar days thereafter by sending a detailed statement and sufficient evidence with respect thereto and shall likewise notify



promptly of any subsequent change in the circumstances. The affected party shall exercise its best efforts under the circumstances to remove or remedy the events of force majeure and the effects thereof and resume full performance hereof as soon as possible.

- 27. TERMINATION FOR CONVENIENCE:** Buyer may at any time terminate this purchase order in whole or in part for its convenience upon written notice to Seller, in which event Seller shall be entitled to reasonable termination charges consisting of a percentage of the purchase order price reflecting the percentage of the work performed prior to termination, plus any reasonably incurred settlement expenses as may be approved by Buyer in writing.
- 28. PATENTS AND DESIGN RIGHTS:** Seller agrees, at its own expense, to defend any suit or action against Buyer or against those selling or using the goods or services covered by this purchase order for alleged infringement of patent or invention rights arising from the sale or use of such goods or services, and to indemnify and save Buyer harmless from any damages, liabilities, claims, losses, and expenses (including attorneys' fees) paid or incurred by Buyer in connection with any such suit or action, whether against Buyer or against those selling or using the goods or services covered by this purchase order.

Seller as part consideration for this purchase order and without further cost to Buyer hereby grants and agrees to grant to Buyer an irrevocable non-exclusive, royalty-free right and license to use, sell, manufacture and cause to be manufactured products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with Seller's performance of this purchase order and Seller hereby grants to Buyer a license to repair, rebuild or relocate and to have repaired, rebuilt or relocated the goods purchased by Buyer under this purchase order. Seller agrees that if this purchase order covers research and development work, and any discoveries, inventions or patents result therefrom, the entire right, title and interest in and to such discoveries, inventions and patents shall belong to Buyer.

- 29. CLAUSE MODIFICATION REQUIRED BY BUYER'S CUSTOMER:** Seller agrees to incorporate into this purchase order any revised clause or additional clause as Buyer may reasonably deem necessary to enable Buyer to comply with the provisions of the higher-tier contract and any modifications thereto. If any such revised clause or additional clause causes any increase or decrease in the cost of or time required for performance of the purchase order work, an equitable adjustment shall be made in accordance with the procedures of the Changes clause hereof.
- 30. CHANGES:** Buyer may at any time, by a written purchase order, make changes within the general scope of this purchase order for compliance by Seller, in any one or more of the following: (i) drawings, designs, or specifications, where the supplies or services to be furnished are to be specifically manufactured or produced for Buyer in accordance therewith; (ii) method of shipment or packing; (iii) place of delivery; and (iv) delivery schedule and period of performance of work.

If any such change causes an increase or decrease in the cost of or the time required for the performance of any part of the work under this purchase order (whether or not changed by such written purchase order), an equitable adjustment shall be made in the purchase order price or delivery schedule and period of performance, or both, and the purchase order shall be modified in writing accordingly. Any claim by Seller for equitable adjustment under this clause shall be asserted within 20 days from the date of receipt by Seller of the notification of change.

- 31. STOP-WORK PURCHASE ORDER:** The Buyer may, at any time, by written purchase order to the Seller, require the Seller to stop all, or any part, of the work called for by this purchase order for a period of 90 days after the written purchase order is delivered to the Seller, and for any further period to which the parties may agree. The purchase order shall be specifically identified as a stop-work purchase order issued under this clause. Upon receipt of the stop-work purchase order, the Seller shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the purchase order during the period of work stoppage. Within a period of 90 days after a stop-work purchase order is delivered to the Seller, or within any extension of that period to which the parties shall have agreed, the Buyer shall either (1) cancel the stop-work purchase order; or (2) terminate the work covered by the stop-work purchase order as provided for in Clause No. 28 of this purchase order.

If a stop-work purchase order issued under this clause is canceled or the period of that purchase order or any extension thereof expires, the Seller shall resume work. The Buyer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the purchase order shall be modified in writing accordingly if (1) the stop-work purchase order results in an increase in the time required for, or in the Seller's cost properly allocable to, the performance of any part of this purchase order; and (2) the Seller asserts its rights to the adjustment within 20 days after the end of the period of work stoppage.

If a stop-work purchase order is not canceled and the work covered by the stop-work purchase order is terminated for the convenience of the Buyer, the Buyer shall allow reasonable costs resulting from the stop-work purchase



order in arriving at the termination settlement. If a stop-work purchase order is not canceled and the work covered by the purchase order is terminated for default, the Buyer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work purchase order.

32. **ENTIRE AGREEMENT:** Except when issued to carry out a written contract between the parties, this purchase order constitutes the entire agreement of sale and purchase of the goods and services identified herein and is expressly limited to and made conditional upon the acceptance of all the terms and conditions. Any additional or different terms and conditions contained in any prior quotation or that may be contained in any acknowledgment of this purchase order shall be deemed objected to by Buyer without further notice of objection and shall be of no effect nor under any circumstances be binding upon Buyer. Seller shall be deemed to have assented to all terms and conditions hereof if any of the goods are shipped or services provided to Buyer.

In addition to the other terms in this purchase order, this purchase order expressly includes all implied warranties and all of the Buyer's remedies set forth in the Uniform Commercial Code. The terms of this purchase order are the sole and exclusive terms on which the Buyer agrees to be bound.

33. **LIMITATION OF BUYER'S LIABILITY/STATUTE OF LIMITATIONS:** In no event shall Buyer be liable for anticipated profits or for special, incidental or consequential damages. Buyer's liability on any claim of any kind for any loss or damage arising out of or connected with or resulting from this purchase order or from the performance or breach thereof shall, in no case, exceed the price allocable to the goods or services or unit thereof which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the goods or services delivered hereunder must be commenced within one year after the cause of action has accrued.

34. **WARRANTY OF PRICE AND PROSPECTIVE ADJUSTMENT:** Seller warrants that the price(s) for the goods or services sold to Buyer under this purchase order are not less favorable than those currently extended to any other customer for the same or like goods or services in equal or smaller quantities. Further, in the event Seller reduces its price(s) for such during the term of this purchase order, Seller agrees to reduce the price(s) hereof correspondingly.

35. **CITIZENSHIP OR AUTHORIZED FOREIGN NATIONAL REQUIREMENTS:** (Clause may be invoked in writing by Buyer (i) at any time/s within performance of this purchase order, and (ii) without adjustment of any terms and conditions of this purchase order.) Persons assigned under this purchase order to work in any of Buyer's facilities need to have original documents sufficient to establish identify, and citizenship or authorized immigration status, and to present them upon initially reporting to work and when requested thereafter. For those individuals who are not U.S. citizens, one of the following must be provided: (1) Alien Registration Receipt Card (INS Form I-151) with photograph; (2) Resident Alien Card (INS Form I-551) with photograph; (3) Temporary Resident Card (INS Form I-688); Employment Authorization Card (INS Form I-688-A); Declaration of Intent to Become a Citizen (INS Form I-772); Unexpired Foreign Passport with either – (a) An unexpired stamp reading "Processed for I-551, Temporary Evidence of Lawful Admission for permanent residence, valid until (with date inserted). Employment authorized" or (b) An attached Form I-94, bearing the same name as the passport, which contains a current employment authorization stamp, so long as the proposed employment does not conflict with any restrictions/limitations on the I-94; (6) Employment Authorization Document (INS Form I-688-B); or (7) Employment Authorization Document (INS Form I-766).

36. **MATERIAL AUTHENTICITY:** All material delivered under this purchase order shall be authentic and traceable to the original manufacturer. If electrical, electronic, electro-mechanical, and mechanical components, assemblies and materials are delivered under this purchase order or contained in assemblies delivered under this purchase order it shall be either: (i) authenticated as prescribed by the quality requirements included in this purchase order; or (ii) if no specific quality requirements addressing the authentication process are called out in this purchase order, shall be otherwise traceable to the original manufacturer. Seller shall provide such authenticity records to Buyer upon request. In the event that Seller delivers items that are determined not to be authentic, Seller shall take corrective action as and to the extent required by the terms of this purchase order. Seller shall establish and maintain a material authenticity process which ensures the requirements of this clause are met. Seller's obligation to substantiate authenticity shall survive acceptance of and payment for supplies delivered under this purchase order. The substance of this clause shall be incorporated into any subcontract or purchase order entered into by Seller for the performance of any part of the work under this purchase order.

37. **TERMINATION FOR DEFAULT:** Buyer may forthwith terminate this purchase order in whole or in part for default in the event of the occurrence of any of the following: (1)(i) Insolvency of the Seller - Seller shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not and whether insolvent within the meaning of the Federal Bankruptcy Act or not; (ii) the filing of a voluntary petition to have Seller declared bankrupt; (iii) the appointment of





a receiver or trustee for Seller, or (iv) the execution by Seller of an assignment for the benefit of creditors. (2) Failure of Seller per the terms of this purchase order to – (i) deliver the supplies or perform the services within the time specified in this purchase order to any authorized extension, (ii) make progress so as to endanger the performance of this purchase order, or (iii) perform to any other substantive provisions of this purchase order. The Seller shall diligently proceed with performance of any purchase order work not terminated.

- 38. INTELLECTUAL PROPERTY:** (a) Seller agrees that it will keep confidential the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data or other technical or propriety information furnished by Buyer, and that it will use such items only in the production of items under this purchase order or other purchase orders from Buyer and not otherwise without Buyer's prior written consent. Upon completion or termination of this purchase order, Seller shall return all such items to Buyer or make such other disposition thereof as may be directed or approved by Buyer. (b) Performance of this purchase order is "work for hire". Seller shall not use or disclose, without Buyer's prior written consent, and agrees that Buyer owns, all intellectual property rights in any tools or other items or drawings, specifications, technical information, computer software, or other data which have been specifically designed for Buyer in connection with this purchase order or furnished by Buyer. (c) Seller agrees that all data, whether in physical or electronic form, furnished to Buyer or required to be furnished to Buyer by this purchase order, together with any information furnished orally to Buyer, shall be free from proprietary restrictions except if elsewhere authorized in this purchase order. Seller's data for which a restrictive use marking is authorized elsewhere in this purchase order may be duplicated, modified, distributed, or used by Buyer in performance of its customer contracts. (d) Seller further agrees not to include knowingly any data copyrighted by others in technical data delivered hereunder without first obtaining, at no additional cost to, and for the benefit of Buyer, a royalty-free, nonexclusive, irrevocable, worldwide license to publish, distribute, translate, duplicate, or exhibit any such data.
- 39. DISPUTES:**
- (a) Good Faith Negotiations. If any dispute arises under this purchase order, the aggrieved party shall give written notice of the dispute to the other party. The parties shall seek to resolve by promptly negotiating with the other in good faith. The negotiation shall be conducted by representatives authorized to bind the respective party by his or her decisions.
  - (b) Mediation. If the parties do not resolve the dispute within twenty (20) days following the notice of dispute, the parties shall endeavor to resolve the dispute by mediation under the applicable rules of a reputable U.S. based mediation organization. Such mediation shall be scheduled to last two days unless the parties otherwise agree in writing.
  - (c) Binding Arbitration. If the parties do not resolve the dispute by mediation, the dispute shall be settled binding arbitration conducted on a confidential basis.
  - (d) Legal Fees. In any dispute arising out of this Agreement, the prevailing party shall be entitled to its reasonable attorney's fee and costs, including expert witness fees.
  - (e) Equitable Relief. Neither party shall be precluded hereby from securing equitable remedies in courts of jurisdiction, including, but not limited to, temporary restraining purchase orders and preliminary injunctions to protect its rights and interests but such remedies shall not be sought as a means to avoid or stay mediation or arbitration.
- 40. WAIVER:** The failure of a party to exercise any right, power or remedy under this purchase order shall not be deemed a waiver of such right, power, or remedy, and shall not modify the terms of this purchase order or waive any similar default.
- 41. MODIFICATIONS:** The purchase order constitutes the entire agreement of the parties hereto, and all previous communications between the parties, whether written or oral, with reference to the subject matter of the purchase order are hereby amended to acknowledge the existence of the purchase order.
- 42. SEVERABILITY OF CLAUSES:** If any part, term, or provision of the purchase order shall be held void, illegal, enforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this purchase order, the validity of the remaining portions of these provisions shall not be affected thereby.
- 43. CONFLICT MINERALS:** Seller warrants that: (a) no Conflict Minerals (i.e., tin, tungsten, tantalum, and gold) that originated in the Democratic Republic of the Congo or any Adjoining Country (i.e., Angola, Burundi, Central African Republic, the Republic of Congo, Rwanda, South Sudan, Tanzania, Uganda and Zambia) are incorporated in, or necessary to, the functionality or production of any Product (including in any component that Supplier gets from a third party); and (b) Seller has made and will make appropriate inquiries to confirm this, including by meeting the



requirements of the Buyer. On Buyer's request, Seller will provide Buyer with sufficient certifications, declarations, reports, audits (including any received from Seller's subcontractors and suppliers), and other information and assistance to permit Buyer to: i) independently confirm and certify Seller's compliance with this Clause; and (ii) comply with the requirements of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (as it may be amended from time to time) ("Dodd-Frank Act") and associated regulations and any other laws and regulations that may be applicable to Conflict Minerals, with respect to all Products. The sufficiency of the certifications and other items described in the previous sentence will be determined by Buyer in its sole discretion. Seller will reimburse Buyer for any costs, fines or penalties that it incurs if Seller does not comply with this Clause.

- 44. BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS** The terms of FAR 52-204.21 and DFAR 252-204.7012 are incorporated herein by reference as if fully set forth herein whenever any Controlled Unclassified Information (CUI) is provided and/or involved in the performance of this purchase order, including but not limited to when CUI is processed, stored, and/or transits through an Unclassified Information System owned or operated by or for the Seller. The FAR and DFAR provisions referenced in this Clause 45 shall not apply to the purchase of commercially available off-the-shelf (COTS) items.

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