

LUXOFT
PO Terms and Conditions

1. GENERAL

- 1.1. Agreement. Seller acknowledges and agrees that it has read and understands these Luxoft PO Terms and Conditions (the "PO Terms and Conditions") and that these PO Terms and Conditions apply to and are incorporated in, and a part of, each purchase order, purchase or supply agreement and each amendment to any such document, release, requisition, work order, shipping instruction, specification and other document, whether expressed in written form, by electronic data interchange or other format, issued or agreed to in writing by Buyer with respect to the Goods (as defined below). (All of the documents that are issued or otherwise agreed to in writing by Buyer as set forth in the preceding sentence are collectively referred to as this "Agreement.") Seller further acknowledges and agrees that Seller is responsible for complying with Buyer's [Partner Code of conduct](#) and all of Buyer's policies, guidelines, manuals and requirements related to the provision of the Goods, including any amendments or modifications as may be implemented by Buyer from time to time during the term of this Agreement (collectively, "Buyer's Standards"), which are also incorporated in, and a part of, this Agreement. Buyer's Standards may be obtained by contacting a representative of Buyer's Procurement Department ("BPD Representative") or by accessing the supplier links at Buyer's internet website at www.luxoft.com, or its successor website.
- 1.2. Defined Terms. The terms "Seller" and "Buyer" as used in these PO Terms and Conditions refer to the entities designated as such on the face of the purchase order or other documents included in this Agreement. The term "Goods" as used in these PO Terms and Conditions refers to the goods to be provided by Seller to Buyer as specified in the purchase order or other documents included in this Agreement, including any service and replacement parts. The term "including" means "including without limitation".
- 1.3. Acceptance. Seller will be deemed to have accepted this Agreement, which Seller acknowledges includes these PO Terms and Conditions in their entirety without modification, upon the earliest of: (a) Seller's acknowledgement of this Agreement in writing, (b) Seller's failure to reject any purchase order or purchase order amendment in writing within ten (10) days after Buyer issues it, (c) Seller's commencement of any of the work or services which are related to or in anticipation of performance of this Agreement, or (d) any other conduct by Seller that indicates acceptance of this Agreement, including any actions by Seller in preparation for Seller's performance under this Agreement, including design work, material procurement, capacity reservation, testing, or delivery of prototype or pilot parts. Any additions to, changes in, modifications of, or revisions of this Agreement (including these PO Terms and Conditions) which Seller proposes (whether in a quotation, purchase order acknowledgement, invoice or other document or communication) will be deemed material and are expressly rejected by Buyer unless agreed to in writing by a BPD Representative.
- 1.4. Requirements Contract. Unless otherwise expressly provided in this Agreement, and without limiting the terms of Sections 1.5 and 2.5, this Agreement is a "requirements contract," which is a contract that measures the quantity to be supplied by the Seller and purchased by the Buyer by the actual requirements of the Buyer. Seller acknowledges that Buyer's requirements are dependent upon the requirements of Buyer's customers and may not be within the control of Buyer.

1.5. Volume Forecasts. Buyer may provide Seller with estimates, forecasts or projections of its future anticipated volume or quantity requirements for Goods. Seller acknowledges that Buyer's forecasts are not binding on Buyer, that any forecasts Buyer makes are for informational purposes only and that Buyer's forecasts may change over time. Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any forecasts provided to Seller, including with respect to their accuracy or completeness.

2. SHIPPING AND BILLING

2.1. Shipping. Seller will: (a) pack, mark and ship Goods as instructed by Buyer or the carriers and in accordance with any applicable laws or regulations, (b) route shipments as Buyer instructs, (c) not charge for costs relating to handling, packaging, storage or transportation (including duties, taxes, fees, etc.) unless otherwise expressly stated in this Agreement, (d) provide packing slips with each shipment that identify Buyer's purchase order and release number and the date of the shipment, and (e) promptly forward the original bill of lading or other shipping receipt with respect to each shipment as Buyer instructs. Seller will include on bills of lading or other shipping receipts the correct classification identification of the Goods shipped as Buyer or the carrier requires. The marks on each package and identification of the Goods on packing slips, bills of lading and invoices must enable Buyer to easily identify the Goods.

2.2. Billing. Seller will: (a) accept payment based upon Buyer's receipt record unless Buyer requests that Seller issue and deliver an invoice, and (b) accept payment by electronic funds transfer. Payment terms are established by this Agreement and are measured from the date that the Goods are received at the Buyer or third party facility referenced in this Agreement as the "ship to" location. Buyer may withhold payment for any Goods until Buyer receives evidence, in such form and detail as Buyer requires, of the absence of any liens, encumbrances and claims on such Goods.

2.3. Taxes. Unless otherwise stated in this Agreement, the price of the Goods includes all applicable federal, state, provincial, and local taxes other than sales, value added, or similar turnover taxes or charges. Seller will separately invoice Buyer for any sales, value added, or similar turnover taxes or charges that Seller is required by law to collect from Buyer. Seller will provide Buyer with whatever information and documentation that is required under local law in order to enable Buyer to recover any sales, value added, or similar turnover taxes or charges. Invoices will also be in the appropriate form as required by local law to permit deduction of payments for income tax purposes by the Buyer.

2.4. Withholding of Taxes by Buyer. If Buyer is required by law to make any deduction or withholding from any sum otherwise payable to Seller under this Agreement, Buyer will be entitled to deduct or withhold such amount and effect payment to the applicable tax authority. Buyer will, upon request from Seller, provide Seller official tax receipts or other evidence issued by the applicable tax authorities sufficient to establish that any taxes which are withheld have been paid.

2.5. Delivery Schedules. Deliveries will be made in the quantities, on the dates, and at the times specified by Buyer in this Agreement or any subsequent releases or instructions Buyer issues under this Agreement. Time and quantity are of the essence with respect to all delivery schedules Buyer establishes. Buyer will not be required to pay for any Goods that exceed the quantities specified in Buyer's delivery schedules or to accept Goods that are delivered in advance of the delivery date specified in Buyer's delivery schedules. Seller bears the risk of loss of all Goods delivered in advance of the delivery date specified in Buyer's delivery schedules. If the requirements of Buyer's customers or market, economic or other conditions require changes in delivery schedules,

Buyer may change the rate and/or quantity of scheduled shipments (i.e., increase or decrease) or direct temporary suspension of scheduled shipments without entitling Seller to a price adjustment or other compensation.

- 2.6. Premium Shipments. If Seller fails for any reason, other than Buyer's failure to fulfill its obligations under this Agreement, to have Goods ready for shipment in time to meet Buyer's delivery schedules using the method of transportation originally specified or utilized by Buyer, Buyer will have the right to either arrange for shipment of the Goods or require Seller to ship the Goods, in each case using a premium (more expeditious) method of transportation, and Seller will pay or reimburse Buyer for the entire cost of such premium shipment.

3. SPECIFICATION, DESIGN AND SCOPE CHANGES

Buyer may at any time require Seller to implement changes to the specifications or design of the Goods, to the place of delivery of any Goods. While Buyer will endeavor to discuss any such changes with Seller as early as practical, Seller will promptly implement such changes. Buyer and Seller will equitably determine any adjustment in price or delivery schedules resulting from such changes, including Buyer's payment of reasonable costs of modifications to the Production Equipment (as defined in Section 17) necessary to implement such changes. In order to assist in the determination of any equitable adjustment in price or delivery schedules, Seller will, as requested, provide information to Buyer, including documentation of changes in Seller's cost of production and the time to implement such changes. In the event of any disagreement arising out of such changes, Buyer and Seller will work to resolve the disagreement in good faith and Seller will continue performing under this Agreement, including the manufacture and delivery of Goods and prompt implementation of changes required by Buyer, while Buyer and Seller resolve any disagreement arising out of such changes. Notwithstanding anything to the contrary contained in this Agreement, Seller acknowledges that Seller will not be entitled to any adjustment in price or delivery schedules or any other compensation in connection with inspection, testing, quality control or any other changes implemented as a result of Seller's delivery of non-conforming Goods.

4. QUALITY AND INSPECTION

Seller will participate in Buyer's supplier quality and development program(s) and comply with all product release and validation requirements and procedures that Buyer specifies from time to time. Seller will permit Buyer and its representatives and consultants to enter Seller's facilities at reasonable times to inspect such facilities and any Goods, inventories, work-in-process, materials, machinery, equipment, tooling, fixtures, gauges and other items and processes related to Seller's performance under this Agreement. Seller agrees that if Seller experiences any delivery, quality or operational problems, including late deliveries or delivery of non-conforming Goods, Seller will permit Buyer's designated representative to be present in Seller's facility to observe Seller's operations until such problems have been resolved to Buyer's reasonable satisfaction. Seller will ensure that Buyer and its representatives and consultants have the same inspection rights with respect to Seller's suppliers. No inspection by Buyer will constitute acceptance by Buyer of any work-in- process or finished Goods.

5. NON-CONFORMING GOODS

Buyer is not required to perform incoming inspections of any Goods, and Seller waives any right to require Buyer to conduct any such inspections. Seller will not substitute any goods for the Goods covered by this Agreement (or any materials or subcomponents incorporated in the Goods) unless Buyer consents in writing. If Buyer rejects any Goods as non-conforming, Buyer may, at its option: (a) reduce the quantities of Goods ordered under this Agreement by the quantity of non-conforming Goods, (b) require Seller to replace the non-conforming Goods, and (c) exercise any other applicable rights or remedies. If Seller fails to inform Buyer in writing of the manner in

which Seller desires that Buyer dispose of non-conforming Goods within forty-eight (48) hours of notice of Buyer's rejection of non-conforming Goods (or such shorter period as is reasonable under the circumstances), Buyer will be entitled to dispose of the non-conforming Goods without liability to Seller, provided, however, that in any event Buyer may elect to arrange for the shipment of any non-conforming Goods back to Seller at Seller's expense. Seller will bear all risk of loss with respect to all non-conforming Goods and will promptly pay or reimburse all costs incurred by Buyer to return, store or dispose of any non-conforming Goods. Buyer's payment for any non-conforming Goods will not constitute acceptance by Buyer, limit or impair Buyer's right to exercise any rights or remedies, or relieve Seller of responsibility for the non-conforming Goods.

6. FORCE MAJEURE

If Seller is unable to produce, sell or deliver any Goods covered by this Agreement, or Buyer is unable to accept delivery, buy or use any Goods covered by this Agreement, as a result of an event or occurrence beyond the reasonable control of the affected party and without such party's fault or negligence, then any delay or failure to perform under this Agreement that results from such event or occurrence will be excused for only so long as the affected party is unable to perform as a result of such event or occurrence, provided, that the affected party gives written notice of each such delay (including the anticipated duration of the delay) to the other party as soon as possible after the event or occurrence (but in no event more than three (3) days after the event or occurrence). Such events and occurrences may include natural disasters, fires, floods, windstorms, severe weather, explosions, riots, wars, sabotage, acts of terrorism, labor problems (including lockouts, strikes and slowdowns), equipment breakdowns and power failures but, in each case, only to the extent beyond the reasonable control of the affected party and without such party's fault or negligence. However, in no event will Seller's performance under this Agreement be excused as a result of any increase in the cost of Seller's performance. During any delay or failure to perform by Seller, Buyer may do any or all of the following: (a) purchase substitute goods from other available sources, in which case the quantities under this Agreement will be reduced by the quantities of such substitute goods and Seller will reimburse Buyer for any additional costs to Buyer of obtaining the substitute goods compared to the prices set forth in this Agreement, (b) require that Seller provide substitute goods from other available sources (including Seller's stock or inventory) in quantities and at times Buyer requests and at the prices set forth in this Agreement, (c) require that Seller provide any work-in-process and raw materials useful in the manufacture of the Goods in Seller's inventory or stock at Seller's actual cost, and (d) require that Seller provide substitute raw materials and components useful in the manufacture of the Goods from available sources in quantities and at times Buyer requests at the lesser of Seller's actual cost and the appropriate pro rata portion of the price of the Goods. If Seller fails to provide adequate assurances that any delay will not exceed thirty (30) days or if any delay lasts more than thirty (30) days, Buyer may terminate this Agreement without any liability to Seller or obligation to purchase raw materials, work-in-process or finished Goods. Before any of Seller's labor contracts expire and as soon as Seller anticipates or learns of any impending strike, labor dispute, work stoppage or other disruption at Seller's facilities that might affect the delivery of Goods to Buyer, Seller will produce (and locate in an area that will not be affected by any such disruption) a finished inventory of Goods in quantities sufficient to ensure the supply of Goods to Buyer for at least thirty (30) days after such disruption commences. In the event and to the extent that the delivery of Goods was delayed or was expected to be delayed prior to the occurrence of a force majeure event (an "Existing Delay"), then any such Existing Delay will not be excused.

7. WARRANTY

7.1. General. Seller warrants and guarantees to Buyer, its successors, assigns and customers that the Goods covered by this Agreement will: (a) conform to the then current

release/revision level (based on the date Buyer's release is issued to Seller) of Buyer's applicable specifications and drawings, (b) conform to all samples, descriptions, performance requirements, brochures and manuals furnished by Seller or Buyer, (c) be merchantable, (d) be of good material and workmanship, (e) be free from defect, (f) be fit and sufficient for the particular purposes intended by Buyer and any customer of Buyer, and (g) comply with all guidelines, standards and agreements incorporated and made a part of this Agreement. Seller further warrants and guarantees to Buyer, its successors, assigns and customers, that Seller will, at the time of delivery, convey to Buyer good title for all Goods covered by the Agreement, free and clear of all liens, claims or other encumbrances. If requested by Buyer, Seller will enter into a separate agreement for the administration or processing of warranty chargebacks for non-conforming Goods.

- 7.2. Warranty Period. In the case of Goods supplied for use as, or incorporation into, parts, components or systems for automotive vehicles or other finished products, the period for each of the foregoing warranties will commence upon delivery of the Goods to Buyer and, except as provided in Section 7.4 or as otherwise expressly agreed in writing by an authorized BPD Representative, end on the expiration date of the warranty Buyer's customer grants to its end consumer for the vehicle or other finished product on which such parts, components or systems are installed. In the case of Goods supplied for other uses, the period for each of the foregoing warranties will be that provided by applicable law unless otherwise expressly agreed in writing by an authorized BPD Representative.
- 7.3. Remedies and Damages. If any Goods are reasonably determined (including by use of statistical analysis or other sampling methodology) to fail to conform to the warranties set forth in this Agreement, Seller will reimburse Buyer for all losses, costs and damages caused by such non-conforming Goods. Such costs and damages may include costs, expenses and losses of Buyer and/or its customers arising from: (a) inspection, sorting, repair or replacement of any non-conforming Goods or any system or component that incorporates such non-conforming Goods, (b) production interruptions or slowdowns, (c) removal of vehicles or component systems from the manufacturing or assembly process, and (d) payments made to Buyer's customers under any applicable warranty programs or policies.
- 7.4. Customer Claims. Seller's warranties under this Section 7 are intended to protect Buyer from any and all warranty claims brought against Buyer by Buyer's customers relating in any manner to the Goods. Buyer will have the right to fully defend any claims from its customers that any Goods supplied by Seller are defective, in breach of warranty, or otherwise did not meet applicable legal or contractual requirements, and all statements by Buyer to its customers regarding the Goods are without prejudice to any rights Buyer may have against Seller with respect to the Goods. Seller waives the right to argue that any position taken by Buyer with its customers in response to its customers' claims in any way limits Buyer's right to assert a claim against Seller for breach of warranty, contribution, indemnification or any other claim that may arise from or be related to the subject matter of any of the foregoing. If Seller wishes to participate in any negotiations with Buyer's customers regarding any Goods supplied by Seller under this Agreement or any related claim or litigation regarding such Goods, Seller will, promptly after being made aware of any alleged failure of such Goods to conform to the warranties set forth in this Agreement, provide Buyer with written notice of Seller's request to participate. Seller acknowledges that Seller's participation in any negotiations with Buyer's customers is solely at Buyer's discretion and nothing in this Agreement grants Seller the right to participate in such negotiations.

8. INGREDIENTS AND HAZARDOUS MATERIALS

If Buyer requests, Seller will promptly furnish to Buyer, in such form and detail as Buyer directs: (a) a list of all ingredients in the Goods, (b) the amount of all ingredients, and (c) information

concerning any changes in or additions to the ingredients and the origin of the Products and all ingredients that are incorporated in the Products. Prior to, and together with, the shipment of the Goods, Seller will furnish to Buyer and all carriers sufficient written warning and notice (including appropriate labels on the Goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the Goods, together with all special handling instructions, safety measures and precautions as may be necessary to comply with applicable law, to inform Buyer and all carriers of any applicable legal requirements and to best allow Buyer and all carriers to prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Goods, containers and packing.

9. INSOLVENCY OF SELLER

In any of the following or any similar events (each, an "Insolvency Event"), Buyer may immediately terminate this Agreement without any liability to Buyer or obligation to purchase raw materials, work-in-process or finished Goods, including under Section 11: (a) insolvency or financial difficulties of Seller, (b) filing of a voluntary petition in bankruptcy by Seller, (c) filing of any involuntary petition in bankruptcy against Seller, (d) appointment of a receiver or trustee for Seller, (e) execution of an assignment for the benefit of creditors by Seller, or (f) any accommodation by Buyer, financial or otherwise, not contemplated by this Agreement, that is necessary for Seller to meet its obligations under this Agreement. Seller will reimburse Buyer for all costs Buyer incurs in connection with any Insolvency Event whether or not this Agreement is terminated, including all attorney or other professional fees.

10. TERMINATION FOR BREACH

In addition to any other rights of Buyer under this Agreement or otherwise, Buyer may immediately terminate all or any part of this Agreement without any liability to Seller or obligation to purchase raw materials, work-in-process or finished Goods, including under Section 11, if Seller: (a) repudiates, breaches, or threatens to breach any of the terms of this Agreement, including Seller's warranties, (b) fails to perform or threatens not to perform services or deliver Goods in accordance with this Agreement, or (c) fails to assure timely and proper completion of services or delivery of Goods.

11. TERMINATION FOR CONVENIENCE

In addition to any other rights of Buyer to terminate this Agreement, Buyer may immediately terminate all or any part (e.g., one or more individual part numbers or a portion of Buyer's requirements if this is a requirements contract) of this Agreement, at any time and for any reason, by notifying Seller in writing.

12. PROTECTION OF SUPPLY

12.1. Continuous Supply. Seller acknowledges that Buyer is depending upon Seller's performance under this Agreement in order for Buyer to meet its obligations to its customers. Accordingly, Seller will ensure an uninterrupted supply of Goods to Buyer in accordance with the terms of this Agreement and may not suspend its performance under this Agreement or terminate all or any part of this Agreement for any reason without the written consent of an authorized BPD Representative. In the event of any dispute between Seller and Buyer arising out of, or in connection with, this Agreement, Buyer and Seller will work to resolve the dispute in good faith; provided, however, that notwithstanding any dispute with Buyer, Seller will provide Buyer with an uninterrupted supply of Goods in accordance with the terms of this Agreement. In the event of any uncertainty relating to Seller's supply of the Goods or actual or potential delay in the performance of Seller's obligations under this Agreement, Buyer may, upon written notice by an authorized BPD Representative, require Seller to manufacture and deliver to Buyer Goods in excess of Buyer's current requirements in amounts determined by Buyer

in good faith.

13. TECHNICAL INFORMATION

- 13.1. Information Disclosed by Seller. Seller will create, maintain, update, and provide to Buyer, in compliance with Buyer's drafting and math data standards, all technical information about the Goods and their manufacture, including drawings, which is reasonably necessary or requested by Buyer in connection with its use of the Goods. Such technical information will not be subject to any use or disclosure restrictions.
- 13.2. Waiver of Claims. Seller agrees not to assert any claim against Buyer, Buyer's customers or their respective suppliers with respect to any information, including technical information that Seller uses or discloses in connection with the Goods covered by this Agreement.
- 13.3. Repair and Rebuild. Seller authorizes Buyer, its affiliates, agents and subcontractors, and Buyer's customers and their subcontractors to repair, reconstruct or rebuild the Goods delivered under this Agreement without payment of any royalty or other compensation to Seller.
- 13.4. Software. Seller grants to Buyer a permanent, paid-up license to use, repair, modify and sell any operating software incorporated in the Goods in conjunction with the use or sale of the Goods.

14. INDEMNIFICATION

Seller will defend, hold harmless and indemnify Buyer, Buyer's affiliates, Buyer's customers, and their respective successors, assigns, directors, officers, employees and agents (collectively, "Buyer Indemnified Parties") from and against any and all lawsuits, actions, claims, demands, judgments, fines, costs (including attorney and other professional fees and disbursements), expenses, losses, liabilities and damages, including any special, incidental, consequential, punitive and exemplary damages (collectively, "Damages") that any Buyer Indemnified Party may suffer or sustain or be in any way subjected to on account of: (a) Seller's failure to perform its obligations under this Agreement or applicable law, including claims based on Seller's breach of warranty (whether or not the Goods have been incorporated into Buyer's products and/or resold by Buyer and regardless of whether such Damages arise under tort, negligence, contract, warranty, strict liability or any other legal theories); (b) infringement or alleged infringement (including patent, trademark, copyright, moral, industrial design or other proprietary rights, or misuse or misappropriation of trade secret) relating to the Goods covered by this Agreement, including any claims in circumstances where Seller has provided only part of the Goods (Seller waives any claim against Buyer that any such infringement arose out of compliance with Buyer's specifications); (c) the performance of any service or work by Seller or its employees, agents, representatives and subcontractors on Buyer's or Buyer's customer's premises or the use of the property of Buyer or any customer of Buyer, except to the extent such liability arises out of the gross negligence or willful misconduct of Buyer or Buyer's customer; and (d) any third party claims or demands to recover for personal injury or death, property damage or economic loss caused by any of the Goods supplied by Seller (regardless of whether such claim or demand arises under tort, negligence, contract, warranty, strict liability or any other legal theories), except to the extent such injury, damage or loss results exclusively from Buyer's specifications as to design or materials or from alteration or improper repair, maintenance or installation by any party other than Seller.

15. COMPLIANCE WITH LAWS

Seller, its suppliers and subcontractors, and any Goods supplied by Seller, will comply with all applicable laws, rules, regulations, orders, conventions, ordinances and standards of the country(ies) of origin and destination or that relate to the manufacture, labeling, transportation, importation, exportation, licensing, approval, performance and/or certification of the Goods,

including those relating to environmental matters, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety and motor vehicle safety. Neither Seller nor any of its suppliers or subcontractors will: (a) utilize child (including as prohibited by International Labor Organization Conventions No. 138 and No. 182), slave, prisoner or any other form of forced or involuntary labor or engage in abusive employment in the supply of Goods under this Agreement; or (b) engage in corrupt business practices in the supply of Goods under this Agreement. Seller agrees to comply and will ensure that its suppliers, subcontractors, employees and agents comply, with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act and the UK Bribery Act, and that neither it nor any of its suppliers, subcontractors or agents will directly or indirectly provide or offer to provide, anything of value to or for the benefit of, any official or employee of a governmental authority to obtain or retain any contract, business opportunity or other benefit, or to influence any act or decision of that person in his/her official capacity. Upon Buyer's request, Seller will certify in writing compliance with this Section and will provide Buyer with whatever information or documentation is necessary for Buyer to comply with applicable laws. Furthermore, Buyer, at its expense and in addition to any other rights available to Buyer under this Agreement or otherwise, has the right to audit Seller's compliance with this Section, including the right to audit and review Seller's and its sub-suppliers and subcontractors facilities and all relevant books, records, guidelines, practices and procedures of such parties. Seller's violation of applicable anti-corruption laws in relation to this Agreement, as determined by (i) Buyer in its reasonable discretion, or (ii) an official determination of Seller's breach of anti-corruption laws, as reflected in judgments or agreements between government enforcement agencies and Seller, will entitle Buyer to terminate this Agreement for Seller's breach in accordance with the provisions of Section 10.

16. INSURANCE

Seller will maintain insurance coverage as required by applicable law and Buyer's requirements as set forth in Buyer's Standards or as otherwise reasonably requested by Buyer, in each case with carriers reasonably acceptable to Buyer. Within ten (10) days of a request by Buyer, Seller will furnish to Buyer a certificate evidencing satisfaction of the insurance requirements under this Agreement. Seller will ensure that Buyer receives thirty (30) days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. The furnishing of certificates of insurance and purchase of insurance will not limit or release Seller from Seller's obligations or liabilities under this Agreement.

17. BUYER'S PROPERTY AND INFORMATION

17.1. Acquisition of Tooling and Materials. To the extent that this Agreement contemplates Buyer's purchase of, or reimbursement (including, unless otherwise specifically provided in the Agreement, via amortization in the form of a per unit charge included in the price of the Goods) to Seller for, any tooling, jigs, dies, gauges, fixtures, molds, patterns, equipment, supplies, materials and other items (collectively with all refurbishments or replacements of any or all of the foregoing items, "Tooling and Materials") to be used in connection with Seller's actual or anticipated supply of Goods to Buyer, Seller will acquire such Tooling and Materials on behalf of Buyer and Buyer will pay to or reimburse Seller the lower of: (a) the amount specified in a purchase order issued by Buyer for such Tooling and Materials, or (b) Seller's actual out-of-pocket cost to acquire the Tooling and Materials from an unrelated third party or, if the Tooling and Materials are constructed or fabricated by Seller or any affiliate of Seller, the actual direct costs for materials, labor and overhead associated with such construction and fabrication. Seller will assign to Buyer any contract rights or claims in which Seller has an interest with respect to such Tooling and Materials. Seller will establish a reasonable accounting system that readily enables the identification of Seller's costs as described above. Buyer or its agents will have the right to audit and examine all books, records, facilities, work,

material, inventories and other items relating to any such Tooling and Materials. Upon Seller's or any supplier of Seller's construction, fabrication or acquisition of such Tooling and Materials, title thereto will vest immediately in Buyer and such Tooling and Materials will be held as "Buyer's Property" (as defined below) by Seller or Seller's supplier, in accordance with this Section.

- 17.2. Bailment of Buyer's Property. All Tooling and Materials and all other materials and items (whether or not such materials are in any way modified, altered or processed) that Buyer or its customer furnishes, either directly or indirectly, to Seller or which Buyer or its customer buys from or gives reimbursement (including via amortization in the form of a per unit charge included in the price of the Goods) to Seller, in whole or in part, together with all Buyer's Information (as defined below), and all refurbishments or replacements of any of the foregoing items, in each case whether in the custody or control of Seller or Seller's suppliers, subcontractors or agents (collectively, "Buyer's Property") are, will be and will remain the property of Buyer and are and will be held by Seller on a bailment basis. Title to all replacement parts, additions, improvements and accessories purchased by Seller will vest in Buyer immediately upon attachment to or incorporation into Buyer's Property. When permitted by law, Seller waives any lien or other rights that

Seller might otherwise have on or in any of Buyer's Property for work performed on, or utilizing, such property or otherwise. Seller authorizes Buyer to file a UCC-1 financing statement with respect to Buyer's Property located in the United States of America or its territories or similar document with respect to all other Buyer's Property, in each case with the appropriate filing authority to give notice of Buyer's ownership interest in Buyer's Property. Failure to file a financing statement or similar document will not alter or amend Buyer's ownership rights in Buyer's Property. Seller will provide Buyer, upon Buyer's request, with a written inventory or other accounting of all Buyer's Property. In any disagreement involving ownership of Tooling and Materials, there is a rebuttable presumption that such Tooling and Materials are Buyer's Property. Buyer and Seller will work to resolve the disagreement in good faith but Buyer will nonetheless have the right to take immediate possession of such Tooling and Materials under Section 18.4. If it is determined that the Tooling and Materials are not Buyer's Property, any amounts owed to Seller (such amounts to be determined in accordance with Section 17 above) will be paid promptly upon resolution of the disagreement.

- 17.3. Seller's Duties with Respect to Buyer's Property. While Buyer's Property is in the custody or control of Seller or any supplier, subcontractor or agent of Seller and until Seller delivers Buyer's Property to Buyer, Seller bears the risk of loss, theft and damage to Buyer's Property, and will, at Seller's expense, keep Buyer's Property fully insured for the benefit of Buyer. Seller will be responsible for the cost of repairing or replacing Buyer's Property if it is stolen, damaged or destroyed regardless of cause or fault. Seller will at all times: (a) regularly inspect, maintain in good condition, and repair Buyer's Property at Seller's own expense, (b) use Buyer's Property only for the performance of this Agreement or any other contract pursuant to which Seller supplies goods to Buyer, (c) deem Buyer's Property to be personal property, including in connection with any agreements between Seller and any third party, (d) conspicuously mark Buyer's Property as the property of Buyer, maintain such markings and provide evidence of such markings to Buyer upon Buyer's request, (e) not commingle Buyer's Property with the property of Seller or with that of a third person, (f) not move Buyer's Property from Seller's applicable shipping location (as shown by the shipping address of Seller) without prior written approval from an authorized BPD Representative, and (g) use Buyer's Property in compliance with Buyer's or the manufacturer's instructions and in compliance with all federal, state and local laws, ordinances and regulations. Buyer will have the right to enter Seller's premises at all reasonable times to inspect Buyer's Property and Seller's

records with respect thereto. Seller will not sell, lend, rent, encumber, pledge, lease, transfer or otherwise dispose of Buyer's Property. Furthermore, Seller will not assert, or permit any person claiming an interest through Seller to assert any claims of ownership to, lien on or any other interest in Buyer's Property. Where Buyer's Property is in the custody or control of any supplier, subcontractor or agent of Seller, Seller will remain primarily responsible for such Buyer's Property under this Section and will ensure full compliance by such supplier, subcontractor or agent with the terms of this Section.

- 17.4. Return of Buyer's Property. Seller agrees that Buyer has the right, at any time and from time to time, with or without reason and without payment of any kind, to take possession of or require that Seller deliver Buyer's Property to Buyer. Without further notice or court hearings, which rights, if any, are waived, Buyer or its designee(s) will have the right to enter Seller's premises and take possession of any and all of Buyer's Property. Upon Buyer's request and in accordance with Buyer's instructions, Buyer's Property will be immediately released to Buyer or delivered to Buyer by Seller, either: (a) Ex Works (IncoTerms 2010) at Seller's plant packed and marked in accordance with the requirements of the carrier selected by Buyer to transport Buyer's Property, or (b) to any location Buyer designates, in which event Buyer will pay Seller the reasonable costs of delivering Buyer's Property to the location Buyer designates. Seller's failure to release or deliver any item of Buyer's Property to Buyer at the end of the bailment, as directed by Buyer, will: (i) be a material breach of this Agreement, and (ii) subject Seller to liability for, among other things, conversion, and responsibility for all costs and expenses, including actual attorneys' fees, incurred by Buyer to recover Buyer's Property and any Damages incurred by Buyer as a result of Seller's failure to release or deliver Buyer's Property as provided in this Agreement. Seller waives any objection to Buyer's repossession and removal of Buyer's Property for any or no reason, including bankruptcy or insolvency proceedings. If Seller does not release and deliver any Buyer's Property in accordance with this Section, Buyer may obtain an immediate writ of possession without notice and without the posting of any bond and/or enter Seller's premises, with or without legal process, and take immediate possession of Buyer's Property.
- 17.5. Disclaimer of Warranties. Seller acknowledges and agrees that: (a) Buyer is not the manufacturer of Buyer's Property nor the manufacturer's agent nor a dealer, (b) Buyer is bailing Buyer's Property to Seller for Seller's benefit, (c) Seller is satisfied that Buyer's Property is suitable and fit for its purposes, and (d) BUYER HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY OR REPRESENTATION WHATSOEVER, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF BUYER'S PROPERTY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. Buyer will not be liable to Seller for any loss, damage, injury or expense of any kind or nature caused, directly or indirectly, by Buyer's Property, including use or maintenance, or repair, service or replacement, or by any interruption of service or for any loss of business whatsoever or howsoever caused, including any loss of anticipatory damages, profits or any other indirect, special or consequential damages and/or personal injury or death.
- 17.6. Use of Buyer's Information. Seller will: (a) keep all Buyer's Information (as defined below) confidential and disclose it only to its employees who need to know such Buyer's Information in order for Seller to supply Goods to Buyer under this Agreement, (b) use Buyer's Information solely for the purpose of supplying the Goods to Buyer, and (c) upon Buyer's request or upon termination or expiration of this Agreement, return all Buyer's Information to Buyer or, at Buyer's option, destroy all Buyer's Information and provide evidence reasonably acceptable to Buyer of such destruction. Goods manufactured based on Buyer's Information may not be used for Seller's own use or sold by Seller to third parties without prior express written consent from an authorized

BPD Representative. "Buyer's Information" means all information: (i) provided to Seller by Buyer or its representatives or subcontractors in connection with the business, programs or Goods covered by this Agreement, including pricing and other terms of this Agreement, specifications, data, formulas, compositions, designs, sketches, photographs, samples, prototypes, test vehicles, manufacturing, packaging or shipping methods and processes and computer software and programs (including object code and source code), or (ii) related in any way to the installation, operation or maintenance of Buyer's Property, including specifications, drawings, processes and operating instructions. Buyer's Information also includes any materials or information that contain, or are based on, any Buyer's Information, whether prepared by Buyer, Seller or any other person.

- 17.7. Protection of personal data. As a result of the engagement, the Parties may have access to personal data of employees, managers, representatives and partners of each other and may need to process this personal data for legal, administrative and management purposes. If Seller is processing personal data, Seller shall:
- 17.7.1. only undertake processing of personal data reasonably required in connection with this Agreement and in accordance with the applicable personal data protection laws;
- 17.7.2. not use the provided personal data for direct marketing or solicitation;
- 17.7.3. take appropriate physical, technical and organizational measures to keep the provided personal data confidential, secure and protect against unauthorized or unlawful processing or access or against accidental loss or destruction;
- 17.7.4. immediately notify Buyer if there is any personal data breach that exposes provided data. Seller shall fully cooperate with Buyer in complying with any laws regarding notification of such personal data breach.

18. SERVICE AND REPLACEMENT PARTS

During the term of this Agreement, Seller will sell to Buyer Goods necessary to fulfill Buyer's and Buyer's customers' service and replacement parts requirements at the then current production price(s) under this Agreement. If the Goods are systems or modules, Seller will sell the components or parts that comprise the system or module at price(s) that will not, in the aggregate, exceed the price of the system or module less assembly costs.

19. REMEDIES AND INJUNCTIVE RELIEF

The rights and remedies reserved to Buyer in this Agreement are cumulative with, and in addition to, all other or further remedies provided in law or equity. Money damages would not be a sufficient remedy for any actual, anticipatory or threatened breach of this Agreement by Seller with respect to its delivery of Goods to Buyer and, in addition to all other rights and remedies which Buyer may have, Buyer will be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, without proof of actual damages, without bond or other security being required and without being required to submit a dispute regarding such breach to arbitration under Section 28.3.

20. CUSTOMS AND EXPORT CONTROLS

- 20.1. Delivery Terms. The obligations of Seller and Buyer regarding licenses, authorizations, security filings and other filings related to the Goods or performance under this Agreement will be as provided in the delivery term specified in this Agreement. Notwithstanding anything to the contrary in any delivery term specified in this Agreement, Seller will have the obligations and Buyer will have the rights set forth in Sections 21.2 through 21.4.
- 20.2. Other Import and Export Data and Information. Seller will, at its expense, provide Buyer or Buyer's appointed agent or service provider with all information (including written documentation and electronic records in Buyer-approved formats) relating to the Goods purchased under this Agreement which are necessary for Buyer to minimize payment of import and export-related duties, taxes or fees and to fulfill any import, export or security-

related obligation. Seller will provide in writing to Buyer the export classification of dual-use or military goods, technology or software provided under this Agreement.

- 20.3. Credits and Refunds. Transferable credits, benefits or rights associated with or arising from Goods purchased under this Agreement, including trade credits, export credits or rights to the refund of duties, taxes or fees, belong to Buyer. Seller will, at its expense, provide all information (including written documentation and electronic transaction records in Buyer-approved formats) necessary to permit Buyer to receive these benefits, credits or rights.
- 20.4. Security-Related Programs. Seller will comply with all applicable requirements of security-related programs established under or in relation to the World Customs Organization (WCO) Framework of Standards to Secure & Facilitate Global Trade, and will, as applicable, be certified in or participate in such security-related programs. This includes but is not limited to the Customs – Trade Partnership Against Terrorism (C-TPAT) and Authorized Economic Operator (AEO) programs. Upon Buyer's request, Seller will certify in writing and provide documentary evidence of such compliance and certification or participation.

21. BUYER'S RECOVERY RIGHT

All amounts due from Buyer or Buyer's affiliates to Seller or Seller's affiliates under this Agreement or any other agreement will be net of any indebtedness or other obligations of Seller or Seller's affiliates to Buyer or Buyer's affiliates. With respect to any monetary obligations of Seller or Seller's affiliates to Buyer or Buyer's affiliates, including direct and indirect losses, costs and damages resulting from Seller's failure to timely deliver Goods, the failure of any Goods to conform to applicable warranties or other breach by Seller of this Agreement or any other agreement with Buyer or Buyer's affiliates, Buyer may at any time and regardless of whether there is any connection between the obligations giving rise to the amounts due, as applicable, recover, recoup or setoff such amounts by deducting such amounts from any sums that are, or will become, owing, due or payable to Seller or Seller's affiliates by Buyer or Buyer's affiliates under this Agreement or any other agreement.

22. NO ADVERTISING

Seller will not, in any manner, advertise or publish that Seller has contracted to furnish Buyer the Goods covered by this Agreement or use any trademarks or trade names of Buyer in Seller's Goods, advertising or promotional materials unless an authorized BPD Representative consents in writing.

23. NO IMPLIED WAIVER

The failure of either party at any time to require performance by the other party of any provision of this Agreement will not affect the right to require such performance at any later time, nor will the waiver by either party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision. No failure or delay in exercising any right or remedy will operate as a waiver of such right nor will any single or partial exercise of any right preclude other or further exercise of such right. No course of dealing or course of performance may be used to evidence a waiver or limitation of Seller's obligations under this Agreement.

24. ASSIGNMENT AND CHANGE IN CONTROL

Buyer may assign, including to its customers, any or all of its rights and obligations under this Agreement, without Seller's prior written consent. Seller may not assign, delegate or subcontract any of its rights or obligations under this Agreement without prior written consent from an authorized BPD Representative. In addition, Buyer may terminate this Agreement upon giving at least thirty (30) days' notice to Seller, without any liability to Seller or obligation to purchase raw

materials, work-in-process or finished Goods, including under Section 11, if Seller: (a) sells, or offers to sell, a material portion of its assets, (b) sells or exchanges, or offers to sell or exchange, or causes or permits to be sold or exchanged, a sufficient amount of its stock or other equity interests that effects a change in the control of Seller, or (c) executes, or otherwise becomes subject to, a voting or other agreement or trust that effects a change in the control of Seller.

25. RELATIONSHIP OF PARTIES

Seller and Buyer are independent contracting parties. Nothing in this Agreement makes either party the agent or legal representative of the other for any purpose whatsoever, nor grants either party any authority to assume or create any obligation on behalf of or in the name of the other party.

26. THIRD PARTY BENEFICIARIES

Buyer's subsidiaries and affiliates are express third party beneficiaries of this Agreement, and any such subsidiary or affiliate may exercise the rights and remedies of Buyer hereunder as if such party were a party to this Agreement.

27. GOVERNING LAW AND JURISDICTION

27.1. U.S. Agreements. If: (a) this Agreement is issued by Buyer from a location within the United States of America or its territories (as shown by the address of Buyer), (b) this Agreement is issued, in whole or part, for Goods to be shipped to a location within the United States of America or its territories (as shown by the ship to or receiving address of Buyer), or (c) Seller's applicable shipping location is within the United States of America or its territories (as shown by the address of Seller), then this Agreement is to be construed according to the laws of the United States of America and the State of New York, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any conflict of law provisions that require application of any other law, and each party hereby agrees that the forum and venue for any legal or equitable action or proceeding arising out of, or in connection with, this Agreement will lie in the appropriate federal or state courts in the State of New York and specifically waives any and all objections to such jurisdiction and venue.

27.2. Non-U.S. Agreements. In all cases not covered by Section 28.1 above and unless otherwise provided in this Agreement: (a) this Agreement is to be construed according to the English law, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any choice of law provisions that require application of any other law; (b) any legal or equitable action or proceedings by Buyer against Seller arising out of, or in connection with, this Agreement may be brought by Buyer in any court(s) having jurisdiction over Seller or, at Buyer's sole option, in any court(s): (i) having jurisdiction over the Buyer's receiving location (as shown by the ship to or receiving address of Buyer), or (ii) in the jurisdiction where Buyer is incorporated or organized; in which event Seller consents to each such jurisdiction and venue, including service of process in accordance with applicable procedures; and (c) any legal or equitable actions or proceedings by Seller against Buyer arising out of, or in connection with, this Agreement may be brought by Seller only in the court(s) of England and Wales.

27.3. Arbitration. At Buyer's or Seller's option, any dispute or other disagreement arising or in connection with this Agreement may be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The arbitration will be conducted by one arbitrator mutually agreed by the parties. The arbitration proceeding will take place in the jurisdiction determined under Sections 28.1 or 28.2, as applicable.

28. SEVERABILITY

If any provision of this Agreement is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this Agreement will remain in full force and effect.

29. RIGHT TO AUDIT AND INSPECT

29.1. Audits and Inspections. Buyer, at its expense, has the right to audit and review all relevant books, records, income statements, balance sheets, cash flow statements, payroll data, receipts and other related supporting data, including Seller's administrative and accounting policies, guidelines, practices and procedures (collectively, "Financial Information"), in order to: (a) substantiate any charges and other matters under this Agreement, and (b) assess Seller's overall financial condition and ongoing ability to perform its obligations under this Agreement. Seller will maintain and preserve all such documents for a period of four (4) years following final payment under this Agreement. Seller will provide Buyer with reasonable access to its facilities and otherwise cooperate and facilitate any such audits by Buyer. Upon Buyer's request, Seller agrees to promptly forward the requested Financial Information and any subsequent Financial Information, updates or amendments to Buyer's designated finance representative.

29.2. Confidentiality Obligations. Buyer will use good faith efforts not to disclose Seller's Financial Information to third parties (other than its attorneys, advisors, agents and lenders) other than as Buyer determines in good faith is necessary in connection with Buyer's: (a) substantiation of any charges and other matters under this Agreement, or (b) assessment of Seller's overall financial condition and ongoing ability to perform its obligations under this Agreement. Buyer will advise third parties to whom the information is disclosed of the requirement for confidentiality as set forth in this Section 30. Notwithstanding the foregoing, Buyer will have no obligations with respect to Financial Information which: (i) was in Buyer's possession before receipt from Seller, (ii) has otherwise been disclosed by Seller to third parties that are not under an obligation of confidentiality, (iii) is required to be disclosed by court order or other lawful governmental action, (iv) Buyer determines to be necessary in any litigation or other dispute resolution proceeding with Seller, or (v) is independently developed by Buyer. Buyer's obligations of confidentiality with respect to any Financial Information under this Section 30 will survive for a period of two (2) years following Buyer's receipt of such Financial Information.

30. ENTIRE AGREEMENT

This Agreement, together with the attachments, exhibits, supplements or other terms of Buyer specifically referenced in this Agreement, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in this Agreement and supersedes all prior oral or written representations and agreements. This Agreement may only be modified by a written contract amendment issued by an authorized BPD Representative. Notwithstanding anything to the contrary contained in this Agreement, Buyer explicitly reserves, and this Agreement will not constitute a waiver or release of, any rights and claims against Seller arising out of, or relating to, any fraud or duress in connection with the formation or modification of this Agreement or any breach or anticipatory breach of any previously existing contract between Buyer and Seller (whether or not such previously existing contract related to the same or similar goods or subject matter as this Agreement). All payments by Buyer to Seller under this Agreement are without prejudice to Buyer's claims, rights, or remedies.

31. SUPREMACY CLAUSE

All documents that comprise this Agreement will be construed, to the extent possible, as consistent and as cumulative; provided, however, that if such construction is unreasonable, then the terms of any purchase or supply agreement signed by Buyer will control, followed by the terms of the applicable purchase order, followed by these PO Terms and Conditions.

32. NOTICES

All notices, claims and other communications required or permitted to be made by Seller to Buyer under this Agreement will be made in writing and sent by: (a) first class mail, (b) nationally recognized overnight courier service, or (c) facsimile, to the purchasing contact for Buyer and at the address designated on the face of the purchase order or at such other address as Buyer may communicate to Seller in writing. Notices using method (a) or (b) will be effective as of the date of receipt. Notices using method (c) will be effective as of the date of confirmation of receipt. Any notice required to be made by Buyer to Seller under this Agreement may be made to Seller by any of the foregoing means of transmission at any Seller address on the face of the purchase order, including Seller's shipping address.

33. SURVIVAL

The obligations under this Agreement will survive expiration or termination of this Agreement except as otherwise expressly provided in this Agreement.

34. TRANSLATIONS

Buyer may provide various translated versions of these PO Terms and Conditions for informational purposes only. However, the original English language version of these PO Terms and Conditions will apply in the event of any disagreement over the meaning or construction of any provisions of these PO Terms and Conditions.