

Cone Drive Operations

Purchase Order Terms and Conditions

These terms and conditions are hereby incorporated by reference into and made a part of the Purchase Order on the reverse hereof, enclosed herewith, or otherwise provided to Seller by Cone Drive Operations Inc, which business unit shall be deemed "Buyer" hereunder.

1. **ACCEPTANCE:** Each Purchase Order ("Order") shall be deemed accepted by Seller by shipment of Goods (the term "Goods" throughout this Schedule includes without limitation, raw materials, components, intermediate assemblies and end products), performance of services, commencement of work on Goods, written acknowledgement, or any other conduct of Seller which recognizes the existence of a contract pertaining to the subject matter hereof. NO PURPORTED ACCEPTANCE OF ANY ORDER ON TERMS AND CONDITIONS WHICH MODIFY, SUPERSEDE, OR OTHERWISE ALTER THE TERMS AND CONDITIONS HEREOF SHALL BE BINDING UPON BUYER AND SHALL BE DEEMED REJECTED UNLESS THEY ARE ACCEPTED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF THE HEADQUARTERS OFFICE OF BUYER NOTWITHSTANDING BUYER'S ACCEPTANCE OR PAYMENT FOR ANY SHIPMENT OF GOODS OR SIMILAR ACT OF BUYER. Unless otherwise stated in such Order, each Order is Buyer's offer to Seller and does not constitute an acceptance by Buyer of any offer or proposal by Seller. Any reference herein to any such offer or proposal by Seller is solely for the purpose of incorporating the description and specifications of the subject matter thereof into the Order and then only to the extent that such description and specifications do not conflict with the description and specifications contained in such Order.

2. **DELIVERY:** Delivery must be in strict compliance with the schedule contained in each Order and shall be made by Seller at such times and places and of such items and quantities as may be specified by Buyer. Time is of the essence of each Order. Shipments of Goods in excess or in advance of Buyer's requirements contained in each Order are at Seller's risk. Buyer reserves the right to return to Seller, at Seller's expense, all Goods received more than three (3) calendar days ahead of the required delivery date. Buyer reserves the right, without loss of any rights or privileges under any Order, including, without limitation, the right to benefit from any cash discounts, to pay invoices covering items shipped in advance of the schedule on the normal maturity after the date specified for delivery. If Seller fails to meet its scheduled delivery dates and Buyer elects to call for expedited shipments, Seller will pay the difference between the method of shipping specified and the actual expedited rate incurred. Seller shall be responsible for any additional charges resulting from any deviation from Buyer's routing instructions. Should Buyer accept Goods which are not delivered on or before the required delivery date, which option Buyer reserves, then Seller shall be liable for all additional costs incurred by Buyer because of such delay(s), including, but not limited to, telecommunication costs, additional or premium transportation charges, special handling expenses, and costs to Buyer to store the materials in addition to other remedies available by law to Buyer. All shipments originating within the U.S. shall be delivered FOB Buyer's dock (Freight Collect). All shipments originating outside the U.S. shall be delivered DDU (Freight Collect). Title and risk of loss shall remain in Seller until Goods are delivered to Buyer's designated receiving location. Notwithstanding such delivery, Seller shall bear the entire risk of loss or damage to Goods purchased hereunder from the time that Buyer gives notice of rejection of such Goods pursuant to the inspection provisions of the applicable Order. If Seller encounters or anticipates difficulty in meeting the delivery schedule, Seller shall immediately notify Buyer in writing, giving pertinent details; provided however, that the receipt of such data shall be for information purposes only and shall not be construed as a waiver by Buyer of any delivery schedule or date or of any rights or remedies provided by law or in the applicable Order. If Seller fails to make delivery promptly and regularly, as required by the Order, Buyer may, in addition to other remedies available at law, terminate such Order in accordance with the paragraphs of this schedule entitled "Termination for Default." Nothing contained in this paragraph shall prevent termination by Buyer under the provisions of the "Termination for Default" paragraphs of this schedule. Seller shall indemnify Buyer for and against any and all damages, liabilities, losses, and expenses (including reasonable attorney's fees) arising from Seller's failure to deliver Goods in accordance with Buyer's Order.

3. **SHIPPING INSTRUCTIONS:** Seller agrees to prepare and properly pack, box or crate Goods for shipment so as to prevent damage in transit, to comply with Buyer's shipping instructions and/or routings, and to describe the Goods on the bill of lading in conformity with appropriate freight classifications. In addition, Seller shall specify on each Bill of Lading, Buyer part numbers and quantity of each shipped. Any additional charges resulting from failure to comply with this provision, including incidental and consequential damages, shall be charged to Seller. Each container must be marked to enable identification of contents and quantities without opening. Packing lists and certifications, when applicable, must accompany each shipment and must have only one (1) purchase order per Seller packing sheet. The location of the packing list must be clearly marked on the container. When multiple containers are used, the packing list will show the items in each container. Multiple containers will be numbered consecutively, for example, 1 of 4, 2 of 4, etc. Buyer's purchase order number and plant location must appear on all invoices, packing sheets, delivery tickets, shipping orders and bills of lading. If Buyer requires or requests Seller to apply Buyer-specified, computer-scannable bar codes on the packing sheets and/or Goods containers, then Seller agrees to do so, free of charge.

4. **INVOICING AND PAYMENT:** Individual invoices showing purchase order number and purchase order item number (and/or any other information required by Buyer) must be issued by Seller for each shipment made pursuant to each Order. Three (3) copies of each invoice shall be mailed within three (3) days after shipping date. Invoice date shall not precede shipment date. Rejections, delays in delivery or delivery in advance of required delivery date, and/or invoices and/or shipping documentation, errors and/or omissions will be considered just cause for withholding payment without loss of cash discount privilege(s). Unless otherwise specified, the price set forth in each Order shall include all charges for Seller's packing, crating and insurance for in transit. Buyer shall have no obligation to pay any invoices received by Buyer more than six months after Seller is required to submit such invoices.

5. PAYMENT TERMS: Payment terms shall be net average 60 days for domestic product Sellers and net average 90 days for international product Sellers. Any discount terms must be agreed to, in writing, by both parties. Product tooling terms paid 90 days after Customer program approval. Capital payment terms will be paid 90 days after commissioning.

6. INSPECTION: Seller agrees to inspect and test all Goods and monitor all services furnished in performance of each Order to ensure compliance with the specifications and other requirements of each Order. Seller will provide any Certificates of Compliance and/or Certificates of Conformance as required by Buyer at Seller's expense. Seller agrees to permit inspection, monitoring and testing by Buyer of all Goods and services furnished in performance of each Order during manufacture or production, where practical, while being performed and at all other times and places. All Goods shall be received subject to Buyer's inspection and acceptance or rejection. Inspection or testing of, or payment for, any Goods or services shall not constitute acceptance of them. Acceptance by Buyer does not relieve Seller of liability for defects or any failure to conform to Buyer specifications. Buyer shall have the right to reject any Goods and refuse any services found not to be in compliance with the specifications or other requirements of the Order. The obligations of this paragraph shall survive the cancellation, termination, expiration or completion of each Order.

7. WARRANTY:

A. Seller expressly warrants that all Goods and services furnished hereunder do not infringe on any patent, copyright or other intellectual property right of any third party and Seller will convey clear title to Goods to Buyer. Goods furnished shall conform to all specifications, drawings, samples, or other descriptions furnished, specified or adopted by Buyer and to all other requirements of the Order. Goods will be merchantable, of good material and workmanship and free from defect. Goods shall be manufactured, packaged and shipped in accordance with all applicable Laws (defined herein). In addition, Seller acknowledges that Seller knows of Buyer's intended use and warrants/guarantees that all Goods covered by any Order that have been selected, designed manufactured or assembled by seller based upon Buyer's stated use will be fit and sufficient for the particular purposes intended by Buyer. The warranty period shall be that provided by applicable law, except that if Buyer offers a longer warranty to its customers, such longer period shall apply. Notwithstanding the foregoing, the warranty period shall be no less than six (6) years from the date of shipment. Such warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the Goods or services and shall run to Buyer, its successors, assigns, customers at any tier, and all end users.

B. Buyer may, at its option, either (i) return defective or non-conforming Goods for credit or refund (without Seller having any right to furnish conforming Goods); (ii) require prompt replacement or correction of the defective or nonconforming Goods, or (iii) have the defective item corrected or replaced at Seller's expense and deduct the cost thereof from any monies due Seller. Such Goods will be held for Seller's instructions and at its risk, or at Buyer's option, will be returned at Seller's risk. The return to Seller of any defective or nonconforming Goods and delivery to Buyer of any corrected or replaced Goods, including expedited shipping where requested by Buyer, shall be at Seller's expense. Any replacement Goods shall be subject to a new warranty. Buyer's packing sheet, which accompanies Goods returned, will indicate whether Goods are to be corrected, replaced or credited to Buyer. No Goods thus returned will be replaced or corrected by Seller without Buyer's written instructions. Goods which have been rejected or required to be corrected shall not thereafter be tendered for acceptance unless the former rejection or correction requirement is disclosed in writing.

C. Any services that do not conform to the requirements of an Order shall, at the option of Buyer be (a) replaced forthwith with substitute services which do conform or (b) terminated. If necessary, Buyer may replace such services from a provider other than Seller and Seller shall pay or credit to Buyer on demand all amounts paid by or charged to Buyer for such nonconforming services, all Buyer's cost of such replacement services and all costs and expenses suffered or incurred by Buyer on account of Seller's failure to provide services conforming to the requirements of the Order.

D. In addition to any other remedies available to Buyer for breach of this warranty and notwithstanding any other provision of any Order to the contrary, Buyer shall have the right, but not the obligation, and is hereby granted a non-exclusive, word-wide, royalty-free license, to make or have made by a third party service provider such modifications to any computer programs provided by Seller hereunder as may be necessary to rectify any failure of such programs to comply with this warranty. The remedies provided in this paragraph are in addition to all others remedies provided to Buyer by law and herein, including Termination under paragraph 12. The obligations of this paragraph shall survive the cancellation, termination, expiration, or completion of each Order.

8. CHANGES: Buyer shall have the right at any time to make changes in one or more of the following: (i) method of shipment or packing, (ii) place or time of delivery or performance; and (iii) the quantities covered by any Order. Notices of changes hereunder shall be delivered to Seller in writing and Seller shall be bound by such changes upon receipt of such writing. Seller understands and agrees that it shall not be entitled to any financial adjustment as a result of Buyer's changes in the time of delivery or performance. Seller shall not make changes in the specifications, physical compositions of or processes used to manufacture Goods (including destroying or moving tooling or equipment from one location to another) without Buyer's prior written consent

9. INTELLECTUAL PROPERTY: Seller agrees that it will, at its own expense, including payment of costs and attorneys' fees and disbursements, defend any claims, charges or lawsuits instituted by any party against Buyer or its customers arising out of, in connection with or related to alleged misuse, misappropriation or infringement of any patent, trademark, copyright or other right relating to Goods or services furnished to Buyer in the performance of each Order, or relating to, resulting from or

arising out of the receipt of such services or use of such Goods in combination with other Goods as is recommended or approved by Seller. Seller further agrees to indemnify and hold harmless Buyer and all persons claiming under Buyer in respect of any claims, demands, liabilities, losses, awards, judgments, fines, settlements, court costs, attorney fees, and expenses incurred by reason of such claims, charges or lawsuits. Seller shall notify Buyer in writing of each such notice or claim of which Seller has knowledge. Seller shall, at its own expense, either procure for Buyer the right to continue using the applicable article, apparatus, material, part, device, process or method or, if the performance thereof will not be adversely affected, replace same with a non-infringing substitute or modify it so it becomes non-infringing, or remove it and refund the purchase price, and transportation and installation costs thereof. The obligations of this paragraph shall survive the cancellation, termination, expiration, or completion of each Order.

10. NOTICE OF DELAYS: Whenever Seller has knowledge that any actual or potential occurrence is delaying or threatens to delay the timely performance of any Order, Seller shall immediately give notice thereof to Buyer, including all relevant information with respect thereto. Delivery delays caused by such occurrence shall be governed by the paragraph 2 entitled "DELIVERY" (and paragraph 12, Force Majeure, if and to the extent applicable).

11. COMPLIANCE WITH LAWS: Seller agrees to comply with all applicable local, state, federal and foreign laws, orders, directives and regulations at any time in effect ("Laws"), including, but not limited to, (a) those found in 41 CFR Chapter 60 requiring equal opportunity and affirmative action without regard to race, color, religion, sex, national origin, presence of a disability or status as a special disabled veteran or Vietnam era veteran, and (b) those governing the import and export of goods, services and technology including without limitation the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"), all of which are specifically incorporated herein by reference. If Seller fails to comply with the provisions of this paragraph, Buyer may, by written notice to Seller, terminate any Order as upon a default in accordance with the "Termination for Default" paragraphs of this schedule in addition to any other rights or remedies provided by law. Seller shall indemnify and hold Buyer harmless against any and all liabilities, losses, penalties, fines, demands, judgments and costs (including without limitation costs of any proceeding, investigation, legal and professional representation) arising from Buyer's failure to comply with all applicable Laws.

12. FORCE MAJEURE:

- (a) Seller shall not be liable for any excess costs if the failure to perform any Order arises out of causes beyond the reasonable control and without any fault or negligence of Seller. Such causes may include, but are not limited to, acts of God, or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, flood, terrorism, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of Seller. No failure of Seller's internal business systems related to the proper processing of date information that results in any defect or failure in Goods or services, deliveries, or any other aspect of performance by Seller or its subcontractors in connection with an Order shall excuse the performance of Seller under any Order. Seller shall notify Buyer in writing within two (2) calendar days of any and all events of Force Majeure.
- (b) During any event of Force Majeure, Seller shall exercise all reasonable efforts to mitigate or limit damages to the Buyer, including but not limited to using reasonable efforts to continue to perform its obligations hereunder and to correct or cure the event or condition excusing performance with all due dispatch.
- (c) If Force Majeure continues for longer than five (5) calendar days, then Buyer, at its sole option, may terminate any Order affected thereby in whole or in part without any obligation or liability except that Buyer is still responsible for payment for Goods or services which have been delivered to and accepted by Buyer prior to Force Majeure notice receipt.
- (d) Any Order may be cancelled by Buyer without liability at any time prior to delivery or performance if its business is interrupted for reasons beyond Buyer's reasonable control. Buyer shall give prompt notice of such cancellation to Seller.

13. TERMINATION AND SETTLEMENT:

- (a) Termination for Default
 - (1) Buyer may, by written notice of default to Seller, immediately terminate the whole or any part of any Order itself if Seller fails to make delivery of the Goods or to perform the services required by any Order within the time specified or any written extension thereof. If Seller fails to satisfy any of the other requirements of any Order, or so fails to make progress as to endanger performance of an Order in accordance with its terms and conditions, and does not cure such failure within a period of ten (10) calendar days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure, then Buyer may terminate the whole or any part of such Order.
 - (2) In the event Buyer terminates an Order in whole or in part as provided in Subparagraph (1) above, Buyer shall have no further obligation to Seller under the terminated portion of an Order and Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, Goods or services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs.
- (b) Termination for Insolvency: Buyer may immediately terminate any Order without liability to seller in any of the following or any other comparable events: (a) insolvency 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 or (e) execution of an assignment for the benefits of creditors by Seller, provided that such petition, appointment or assignments is not vacated or nullified within 15 days of such event. Seller shall reimburse Buyer for all costs incurred by Buyer in connection with any of the foregoing, including, but not limited to, all attorney's or other professional fees.

(c) Termination for Convenience: Buyer may at any time by written notice terminate all or any part of any Order for Buyer's convenience, in which event Seller agrees to stop work immediately as to the terminated portion and to notify subcontractor(s) (if any permitted) to stop work, and protect and preserve property in its possession in which Buyer has an interest. If any Order is terminated, in whole or in part, for Buyer's convenience, Seller shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the reasonable cost of Seller's actual performance of work under such Order to the effective date of termination. Buyer shall have no obligation to make any of the aforementioned payments to Seller, either for completed items or in connection with terminated work-in-process, unless Seller shall establish to Buyer's satisfaction that such completed items, or the work-in-process, including materials, are unusable in connection with Seller's other business. In no event shall the termination charges and all previous payments made under any Order exceed the total price shown in such Order.

(d) If an Order is terminated as provided in paragraph 13 (a)-(c), Buyer, in addition to any other rights provided in the Order, may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer, the following: (i) any completed Goods; and (ii) such partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") as Seller has specifically produced or specifically acquired for the performance of such part of such Order as has been terminated. Seller shall also, upon direction of Buyer, protect and preserve property in the possession of Seller in which Buyer has an interest. Payment for completed Goods delivered to and accepted by Buyer shall be at the price specified in the Order. Payment for manufacturing materials delivered to and accepted by Buyer and for the protection and preservation of property shall be in an amount agreed upon by Buyer and Seller; failure to agree to such amount shall be a dispute within the meaning of paragraph 21 hereof entitled "DISPUTES." Buyer may withhold from amounts otherwise due Seller for such completed Goods or manufacturing materials such sum as Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lien holders.

(e) The rights and remedies of Buyer provided in this paragraph 13 shall not be exclusive and are in addition to any other rights and remedies provided by law or under such Order. Any termination of an Order under this paragraph 13 shall not relieve Seller of any obligations and liabilities which may have arisen under any of the terms and conditions of such Order prior to such termination, including, but not limited to, patent infringement, latent defects, and warranty obligations.

14. PRICES: No delivery may be invoiced at a higher price than what is provided for in the Order. If no lower price is shown on the invoice, the price provided for in the Order shall be the price payable by Buyer. Prices are exclusive of applicable sales taxes (including V.A.T., if applicable). No charge will be allowed for packing, crating, drayage, or storage. Seller warrants that prices charged for the Goods are not higher than those charged to any other customer, including the government, for Goods of like grade and quality in similar quantities.

15. INDEMNITY: Notwithstanding anything contained in Seller's warranty to the contrary, Seller and Buyer expressly agree that Seller is responsible for and agrees to indemnify Buyer for any and all damages, losses, expenses, attorneys' fees, court costs, etc., that result from incidents, accidents, injuries or deaths to any persons or damage and/or losses to property, that arise out of or result from the Goods purchased by Buyer from Seller or their existence, presence or use, or services rendered by Seller to Buyer and from the presence of any of Seller's personnel or agents on any premises of Buyer (or with respect to which Buyer has liability). This paragraph 15 shall survive termination, expiration, or completion of any Order.

16. GRATUITIES, POLICIES AND PROCEDURES:

(a) If it is found that gratuities (in the form of entertainment, gifts or otherwise) are offered by Seller, or any agent or representative of Seller, to any employee of Buyer with a view toward securing favorable treatment with respect to the awarding or performing of any Order, Buyer may, by written notice to Seller, terminate any or all Orders as upon a default in accordance with such Order in addition to any other rights or remedies provided by law.

(b) Seller, its employees, representatives, and agents shall comply with all of Buyer's rules, regulations, policies and procedures while on Buyer's premises or in the company of any of Buyer's employees. If Seller, its employees, representatives, or agents violate Buyer's rules, regulations, policies, or procedures, Buyer may, by written notice to Seller, terminate any Order as upon a default in accordance with such Order in addition to any other rights or remedies provided by law.

17. APPLICABLE LAW: Buyer and Seller expressly agree to exclude from applicability to any Order the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto. Each Order shall be deemed to be a contract entered into in, and exclusively governed by and construed in accordance with, the substantive laws of the state set forth in the Order with respect to choice of laws, and without regard to the conflict of laws rules of such state. In the case of any Order that does not specify a choice of laws, such Order shall be governed by the substantive laws of the State of Delaware, without regard to Delaware conflict of laws rules. Buyer and Seller each submit in any lawsuit involving any Order to the sole and exclusive jurisdiction and venue of either (a) the courts of general jurisdiction of the state and county as set forth in the Order or (b) the United States District Court for the district in of the state of jurisdiction and venue as set forth in the Order. Any provision in any Order or in any attachments hereto and incorporated herein which is prohibited by the laws of any state shall, as to such state, be ineffective to the extent only of such prohibition, but without invalidating any of the remaining provisions hereof.

18. **AMENDMENT BY LAW:** Each Order shall be deemed to contain all provisions required to be included by any applicable local, state federal or foreign laws, orders, regulations or directives heretofore or hereafter promulgated without the subsequent amendment of such Order specifically incorporating such provisions.

19. **CUSTOMS DUTIES, OFFSETS AND EXPORT CONTROLS:** Credits or benefits resulting or arising from any Order, including trade credits, export credits or the refund of duties, taxes or fees, shall belong to Buyer. Seller shall provide all information necessary (including written documentation and electronic transaction records) to permit Buyer to receive such benefits or credits, as well as to fulfill its customs related obligations, origin marking or labeling requirements and local content origin requirements, if any. Export licenses or authorizations necessary for the export of the Goods to Buyer shall be the responsibility of Seller unless otherwise indicated in any Order, in which event Seller shall provide such information as may be necessary to enable Buyer to obtain such licenses or authorization(s). Seller shall undertake such arrangements as necessary for the Goods to be covered by any duty deferral or free trade zone program(s) of the country of import.

20. **ASSIGNMENT:** Seller shall not assign or delegate its obligations or performance of this Order without prior written consent of Buyer. Proceeds due or to become due under this Order may be assigned by Seller only with the written consent of Buyer and then provided that payment to an assignee of any claim related to this order shall be subject to all applicable defenses, reductions and setoffs. Buyer may assign its rights hereunder to any corporation controlled by or under common control with Buyer and to any successor to all or substantially all of the business of Buyer.

21. **DISPUTES:** Buyer and Seller shall strive to settle amicably and in good faith any dispute arising in connection with this Order. If representatives of Buyer and Seller are unable to resolve a dispute within (30) days, Buyer or Seller may resort to such legal proceedings as may be available to such party, subject to paragraph 17 above. Pending resolution of any dispute hereunder, Seller shall proceed diligently with the performance of work, including the delivery of Goods in accordance with Buyer's direction.

22. **ENVIRONMENTAL AND HEALTH AND SAFETY REQUIREMENTS:** Seller will take appropriate actions to provide a safe and healthy workplace and to protect local environmental quality at and near all facilities and operations where it will conduct activities to supply Goods or services under any Order. For Goods sold or otherwise transferred to Buyer under any Order containing hazardous materials, Seller shall provide all information that a U.S manufacturer or importer must provide to comply with the Hazard Communication Standard codified at 29 CFR 1910.1200, including complete Material Safety Data Sheets (OSHA Form 20) and labeling, whether or not the standard applies to the activities of Seller. Seller further represents, warrants and certifies that no Goods manufactured with child, indentured, forced or prison labor. Failure to comply with these regulations will nullify any and all of Buyer's obligations to seller.

23. **INSURANCE:** Seller shall maintain insurance coverage with carriers acceptable to Buyer and in the amounts set forth in any special terms notified to Seller. Seller shall furnish to Buyer either a certificate showing compliance with these insurance requirements or certified copies of all insurance policies within 10 days of Buyer's written request. The certificate will provide that Buyer will receive 30 days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. Seller's furnishing of certificates of insurance or purchase of insurance shall not release Seller from any of its obligations or liabilities under any Order.

24. **SELLER'S PROPERTY:** Unless otherwise agreed to by Buyer, Seller, at its expense, shall furnish, keep in good condition, and replace when necessary all machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns and other items ("Seller's Property") necessary for the production of the Goods. The cost of changes to Seller's Property necessary to make design and specification changes authorized by Buyer shall be paid for by Buyer. Seller shall insure Seller's Property with full fire and extended coverage insurance for its replacement value. Seller grants Buyer an irrevocable option to take possession of and title to Seller's Property used in the production of the goods upon payment to Seller of its net book value less any amounts that Buyer has previously paid to Seller for the cost of such items provided, however, that this option shall not apply if Seller's Property is used to produce Goods that are the standard stock of Seller or if a substantial quantity of like Goods are being sold by Seller to others.

25. **BUYER'S PROPERTY:** All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items furnished by Buyer, either directly or indirectly, to Seller to perform any Order, or for which Seller has been reimbursed by Buyer, shall be and remain the property of Buyer and held by Seller on a bailment basis ("Buyer's Property"). Seller shall bear the risk of loss of and damage to Buyer's Property. Buyer's Property shall at all times be properly housed and maintained by Seller, at its expense, shall not be used by Seller for any purpose other than the performance of any Order, shall be deemed to be personalty, shall be conspicuously marked by Seller as the property of Buyer, shall not be commingled with the property of Seller or with that of a third person, and shall not be moved from Seller's premises without Buyer's prior written approval. Buyer shall have the right to enter Seller's premises at all reasonable times to inspect such property and Seller's records with respect thereto. Upon the request of Buyer, Buyer's Property shall be immediately released to Buyer or delivered to Buyer by Seller, either (i) F.O.B. carrier at Seller's plant, properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property, or (ii) to any location designated by Buyer, in which event Buyer shall pay to Seller the reasonable costs of delivering such property to such location. When permitted by law, Seller waives any lien or other rights that Seller might otherwise have with respect to any of Buyer's Property for work performed on such property or otherwise.

26. **BUYER'S RIGHT TO ENTER PREMISES:** Seller shall permit and obtain from its subsellers the right for Buyer's agents to enter Seller's and subsellers' premises at reasonable times to determine Seller's adherence to the terms and conditions of any Order. This provision shall include the right to inspect and test all Goods, tooling, and workmanship. However, the failure to test or inspect will neither relieve Seller of any liability for defects, nor create any liability on the part of Buyer for failure to inspect.

27. CONFIDENTIAL OR PROPRIETARY INFORMATION:

(a) No knowledge or information disclosed to Buyer by Seller which in any way relates to Goods or services covered by any Order, shall, unless otherwise specifically agreed in writing by Buyer, be deemed to be confidential or proprietary information, and Buyer shall acquire all such knowledge and information free from any restrictions (other than a claim for patent infringement), as part of the consideration for the Order.

(b) All technical and other information obtained or learned by Seller as a result of this buyer/supplier relationship and all technical and other information furnished by Buyer or jointly developed by Buyer and Seller shall remain Buyer's property and, unless otherwise consented to in a writing signed by Buyer's representative, shall be used only for performance of the work under the Order and shall not be divulged to third parties. Buyer's consent will not be unreasonably withheld.

28. FOREIGN PURCHASES:

(a) Unless specifically provided otherwise in an applicable Order, Seller shall be Importer of Record.

(b) If Buyer is Importer of Record, Seller warrants that all sales made hereunder are or will be made at not less than fair value under the United States Anti-Dumping Law (19 U.S.C. Sec.160, et. seq.).

(c) If Seller is Importer of Record, Seller agrees that Buyer will not be a party to the importation of Goods, that the transaction(s) represented by the Order will be consummated subsequent to importation, and that Seller will neither cause nor permit Buyer's name to be shown as "importer of record" on any customs declaration. Upon request and where applicable, Seller will provide Buyer with Customs Form 7552 entitled "Certificate of Delivery" properly executed and will further provide all commercial invoices in proper form to allow for entry and possible drawback. Seller will not disclose any information regarding Buyer or the Goods contrary to applicable laws and regulations of the U.S.

29. PRODUCT RECALL: If any Goods are determined by Seller, Buyer or any governmental agency or court to contain a defect or a quality or performance deficiency, or not be in compliance with any standard or requirement so as to make it advisable that such Goods be reworked or recalled, Seller or Buyer will promptly communicate relevant facts to each other and shall undertake corrective action, provided that Buyer shall cooperate with and assist Seller in any necessary filings and corrective action, and provided that nothing contained in this Section shall preclude Buyer from taking such action as may be required of it under any such law or regulation. Where applicable, Seller shall pay all reasonable expenses associated with determining whether a recall or rework is necessary. Seller shall perform all necessary repairs or modifications at its sole expense, except to the extent Seller and Buyer agree to the performance of such repairs by Buyer upon mutually acceptable terms. The parties recognize that it is possible that other Seller-manufactured Goods might contain the same defect or noncompliance condition as do Goods manufactured for Buyer. Buyer and Seller agree that any recall involving Goods for Buyer shall be treated separately and distinctly from similar recalls of other Goods of Seller; provided that such separate and distinct treatment is lawful and Seller shall in no event fail to provide at least the same protection to Buyer on such Goods as Seller provides to its other customers in connection with such similar recalls. Each party shall consult the other before making any statements to the public or a governmental agency relating to potential safety hazards affecting Goods, except where such consultation would prevent timely notification required by law.

30. REPLACEMENT PARTS: Seller shall provide replacement parts to Buyer and its affiliates for a period of 10 years after cessation of original production, or any period required by Buyer's customers, whichever is longer. Seller shall continue to supply such parts after such 10-year period if Buyer or its affiliates order at least 100 parts per year. Nonproduction or obsolete parts shall be offered to Buyer or its affiliates for a lifetime buy at then-current production prices before Seller shall be allowed to discontinue. All other nonproduction parts shall be offered at production prices for two years after obsolescence. Thereafter, prices shall be negotiated based on Seller's actual cost of production plus any special packaging. Seller shall notify Buyer or its affiliates and receive written approval before scrapping any tooling used to make replacement parts for Buyer.

31. SET-OFF: Buyer shall have the right at all times to set off any amounts owing from Seller to Buyer, any component of Buyer or any of its affiliates, against any amount payable at any time by Buyer.

32. TRADEMARKS: The names and trademarks of each party and its affiliates shall remain the sole and exclusive property of that party or its affiliates and shall not be used by the other party for any purpose whatsoever unless expressly authorized by the owning party.

33. TESTING: Testing of any kind of Goods by Buyer, whether for performance or reliability, shall not negate, diminish or relieve Seller's obligation or responsibility under any warranty, express or implied, indemnification, hold harmless or other similar term or provision existing at law or under any Order.

34. QUALITY ASSURANCE: If seller supplies Goods under ISO9000, QS9000, AS9000, VDA 6.1 or any other quality assurance system specified by Buyer's or its customers, Seller shall comply with such quality system standard for such Goods covered by this Order. Seller agrees to permit Buyer or its customers to review Seller's procedures, practices, processes and related documents to determine such acceptability. This requirement is in addition to any special quality assurance provisions, which may be incorporated elsewhere in any applicable Order. Records of all inspection work by Seller shall be kept complete and available to Buyer or its customers during the performance of any applicable Order and for such longer period and in such manner as may be specified by Buyer.

35. MATERIAL MANUFACTURED BY BUYER: Seller shall buy Goods and obtain services from Buyer or its affiliates to the extent compatible with Seller's needs.

36. COUNTERFEIT GOODS PREVENTION:

(a) Supplier represents and warrants that Counterfeit Goods are not contained in Goods delivered to Buyer through the implementation of policies that include prevention, detection and risk mitigation methods to protect against the use of Counterfeit Goods..

(b) Supplier shall purchase parts directly from the Original Component Manufacturer (OCM) / Original Equipment Manufacturer (OEMs), or from the OCM authorized or franchised distributor. Procurement through an independent distributor, non-franchised distributor or broker is NOT authorized. A certificate of conformance shall accompany each shipment of Goods delivered, along with OCM/OEM documentation that authenticates traceability of the components to that applicable OCM. If an original OEM/OCM certificate is NOT available, distributor shall provide a De-lid and Die Verification Report for the supplied parts verifying authenticity of the parts and such other documentation, testing and/or other information as Buyer shall reasonably request; however, the submission of such additional items shall not relieve Supplier of its obligations hereunder.

(c) In the event Supplier becomes aware or suspects that it has furnished Counterfeit Goods, it shall immediately notify Buyer. When requested by Buyer, Supplier shall provide (if available) Authorized Supplier documentation that authenticates traceability of the parts to the applicable Authorized Supplier.

(d) In the event that Goods delivered under this Order are, or include, Counterfeit Goods, Supplier shall promptly investigate, analyze and report in writing to Buyer whether such Counterfeit Goods should be replaced with genuine parts conforming to the requirements of this Order, or whether an alternative solution is recommended to meet the Order requirements at Supplier's sole expense. The parties shall then agree upon the appropriate course of action.

(e) Supplier shall include this clause or reasonably equivalent provisions in all subcontracts for the delivery of Goods that will be furnished to or included in Goods furnished to Buyer.

(f) for purposes of this Section, "Counterfeit Goods" means a part that is a copy or substitute without legal right or authority to do so or one whose material, performance, or characteristics are knowingly misrepresented by a supplier at any level in the supply chain. Examples of Counterfeit Goods may include, but are not limited to: (i) parts which do not contain the proper internal construction (die, manufacturer, wire bonding, etc.) consistent with the ordered part, (ii) parts which have been used, refurbished or reclaimed, but represented as new product, (iii) parts which have a different package style or surface plating/finish than the ordered parts, (iv) parts which have not successfully completed the Original Equipment Manufacturer's (OEM) / Original Component Manufacturer's (OCM) full production and test flow, but are represented as completed product, (v) parts sold as up-screened parts, which have not successfully completed up-screening, or (vi) parts sold with modified labeling or markings intended to misrepresent the part's form, fit, function, grade or manufacturing date.

37. INCORPORATED DOCUMENTS: All documents attached to an Order are incorporated therein by reference and made a part of the Order as if fully set forth herein.

38. ORDER OF PRECEDENCE: In the event of any inconsistency among provisions contained in any Order and any documents incorporated by reference herein, the inconsistency shall be resolved by giving precedence in the following order: (i) separate, written contract; (ii) the Order to which these Terms and Conditions are attached or incorporated by reference; (iii) these Terms and Conditions; (iv) drawings; (v) specifications; and (vi) any other documents incorporated by reference.