

TERMS AND CONDITIONS OF PURCHASE ORDER

1. DEFINITIONS

1.1 For purposes of this Purchase Order, the following definitions apply:

- (A) **“Buyer”** means UTI Inventory Management Solutions [and all of its majority owned worldwide subsidiaries].
- (B) **“Consumable”** means a Spare Part whose life expectancy and mode of failure is known or predictable during the normal operation of the Equipment.
- (C) **“Copyrights”** means all copyrights worldwide arising under statutory or common law, including without limitation copyright applications, copyright registrations, and any analogous right.
- (D) **“Documentation”** means all documentation and training materials provided by Supplier regarding the proper installation, use, maintenance, repair and operation of Items.
- (E) **“Effective Date”** means the date when this Purchase Order is issued to Supplier.
- (F) **“Electronic Ordering System”** means any web based ordering system, electronic purchase order system, electronic order acknowledgement, form of electronic order acceptance, or any software based ordering system. Electronic Ordering Systems do not include any systems designed for the negotiation, signature, offer, or acceptance of purchase specifications or configuration specifications.
- (G) **“Equipment”** means whole systems, or subsystems, including upgrade and conversion kits, tooling, pre-facilities kits, modifications, and other hardware that produce the required output per the applicable configuration specification and purchase specification for each Equipment model.
- (H) **“Final Acceptance”** means Buyer’s express approval to Supplier that Items conform to the requirements in the In-House Acceptance section of the purchase specification or any other mutually determined specifications.
- (I) **“Hazardous Materials”** means dangerous goods, chemicals, contaminants, substances, pollutants or any other materials that are defined as hazardous by any applicable law, regulations, or industry standard.
- (J) **“Intellectual Property Rights”** means all intellectual property rights worldwide arising under statutory or common law, including without limitation Copyrights, Moral Rights, Mask Work Rights, Patent Rights, Trade Secret Rights, Trademark Rights and any analogous right.
- (K) **“Items”** means, either singly or collectively, any goods provided by Supplier during the term of this Purchase Order, including but not limited to Equipment, New Developments, Software, and Spare Parts.
- (L) **“Mask Work Rights”** means all mask work rights worldwide arising under statutory or common law, including without limitation mask work registrations, and any analogous right.

- (M) **"Moral Rights"** means all rights of attribution worldwide arising under statutory or common law, including without limitation rights that may be known as "moral rights," "artist's rights," "droit moral" and any analogous right.
- (N) **"New Developments"** means any Technology developed, conceived, obtained, or created by Supplier or its subcontractors (solely or in collaboration with others) under this Agreement with funding, engineering resources, or confidential information provided by Buyer. New Developments do not include any Supplier Background Technology.
- (O) **"New Development Documentation"** means any information and documents, including, but not limited to, drawings, schematics, works of authorship, and instructions, relating to New Developments.
- (P) **"Non-Consumable"** means a Spare Part(s) that is not replaced routinely and has an unpredictable life expectancy and that is typically replaced or repaired due to failures or deteriorating performance.
- (Q) **"Patent Rights"** means all patent rights worldwide arising under statutory or common law from all classes or types of patents (including, without limitation, originals, divisions, continuations, continuations-in-part, extensions or reissues), and applications for these classes or types of patent rights.
- (R) **"Release"** means Buyer's Purchase Order or change order to ship, provide, or cancel, a specific quantity of Items or perform Services to a specified schedule.
- (S) **"Supplier Background Technology"** means any Technology that Supplier developed, conceived, obtained, licensed, or acquired prior to the Effective Date of this Agreement or that Supplier develops, conceives, obtains, licenses, or acquires independently of this Agreement. Supplier Background Technology does not include any New Developments.
- (T) **"Services"** means any work to be performed by Supplier including, but not limited to: installation, process qualification, maintenance, warranty repair, service call, continuous improvement, training, Equipment upgrades or modification, and extended service contracts.
- (U) **"Software"** means any software or firmware provided by Supplier during the term of this Purchase Order including, but not limited to, modifications, enhancements, upgrades, subsequent versions or releases, and software or firmware provided in connection with Items and updates.
- (V) **"Spare Part"** means any Consumable or Non-Consumable, whether procured by Buyer from Supplier or a third party.
- (W) **"Supplier"** means the party to whom this Purchase Order is being issued and who is providing Items or Services to Buyer under this Purchase Order.
- (X) **"Technology"** means all know-how, information, ideas, inventions, modifications, prototypes, tools, other tangible embodiments, and works of authorship, including without limitation, specifications, drawings, software, databases, compilations, schematics, documentation, and presentations.

- (Y) **“Trademark Rights”** means all trademark rights worldwide arising under statutory or common law, including without limitation trademarks, trade names, service marks, trade dressing or other forms of corporate or product identification.
- (Z) **“Trade Secret Rights”** means all trade secret rights worldwide arising under statutory or common law, and any analogous right.

2. General Terms and Conditions

- 2.1 Order to be confirmed in writing within 48 hours. If not received, it will be presumed that all terms and conditions of the order are acceptable and material will be delivered as per order terms. Any discrepancy claimed after 48 hours will not be accepted.

3. SCOPE AND TERMS OF AGREEMENT

- 3.1 This Purchase Order, which incorporates by reference these Terms and Conditions of Purchase Order and all other terms and conditions set forth on the face of the proposed purchase contract by Buyer's authorized purchasing representative is Buyer's offer to purchase Items, Services, or both described in this offer (collectively, the “Purchase Order”). Acceptance is strictly limited to the express terms and conditions in this Purchase Order. Any additional or different terms or conditions contained in Supplier's documents will not apply. Unless specifically agreed to in writing by Buyer's authorized purchasing representative, Buyer objects to, and is not bound by, any term or condition that differs from or adds to this Purchase Order. Supplier's commencement of performance, or acceptance of this Purchase Order in any manner, will conclusively evidence acceptance of this Purchase Order as written.

4. PRICING AND TAXES

- 4.1 Supplier represents and warrants to Buyer that the price charged Buyer for any Item or Service will be Supplier's lowest price charged to any customer for any similar Item or equivalent Service, regardless of any special terms, conditions, rebates or allowances. Supplier bears the burden of proof by clear and convincing evidence that Items being compared are not “similar” or the Service being compared is not “equivalent”. If Supplier sells any similar Item or provides equivalent Service to any other customer at a price lower than the price set forth in this Purchase Order, Supplier must immediately notify Buyer of this lower price, and Supplier must adjust Buyer's price to achieve and maintain the lower price for any non-invoiced Item or Service and for all outstanding and future invoices for such Item or Service. Supplier will also rebate to Buyer an aggregate amount equal to the difference in the price paid by Buyer and the lower price paid by any other customer of Supplier for such Items or Services. The above adjustments and the rebate must be calculated from the date Supplier first sells the similar Item or equivalent Service at the lower price.
- 4.2 MFC Audit Provisions
- (A) Buyer reserves the right to verify compliance with this Purchase Order. At Buyer's written request and expense, a review of Supplier's pricing practices and history will be performed by an independent third party audit firm of Buyer's choice. Supplier will have the option to review the independent third party's findings before the release of such findings to Buyer. If Supplier disagrees with the findings for any reason, Supplier will have the right to issue a letter in response, which will be included with the third party's findings to Buyer. The results of such review will remain confidential, but the third party will report to Buyer any failure by Supplier to abide by the obligations of this Purchase Order.
- 4.3 Taxes
- (A) In addition to the amounts payable by Buyer under this Agreement, all applicable transaction taxes, including but not limited to sales and use taxes, value added taxes, and other transactional charges such as duties, customs, tariffs, imposts, and government imposed surcharges (“Transaction Taxes”) will be paid by Buyer. If Supplier is required by applicable law to collect from Buyer and

remit such Transaction Taxes to the appropriate taxing authority, Supplier will separately state the Transaction Taxes on Supplier's invoice to Buyer and, as promptly as practicable, provide Buyer with an official tax receipt or other evidence that Transaction Taxes have been remitted to the relevant taxing authority. If Buyer is exempt from Transaction Taxes, Buyer will provide proof of such exemption to Supplier prior to any payment of an invoice. Supplier will cooperate, to the extent reasonably requested by Buyer and as permitted by applicable law, in minimizing any such Transaction Taxes. If Supplier does not collect Transaction Taxes from Buyer as required by applicable law, and is subsequently audited by any taxing authority, liability of Buyer will be limited to the Transaction Tax assessment, with no reimbursement for penalty or interest charges.

- (B) Buyer will be entitled to deduct or withhold or cause to be withheld from amounts payable to Supplier under this Agreement any income taxes it determines is required to be deducted or withheld under applicable law ("Withholding Taxes") and will pay to the Supplier the remaining net amount after the deduction of Withholding Taxes. Buyer will remit the Withholding Taxes to the appropriate taxing authority and provide Supplier with an official tax receipt or other evidence that Withholding Taxes have been remitted to the relevant taxing authority. Any Withholding Taxes will be treated for all purposes of this Agreement as having been paid to Supplier and Buyer will not reimburse Supplier for the amount of such Withholding Taxes that have been remitted to the taxing authority. If within fifteen (15) business days prior to the time any payments are made by Buyer to Supplier under this Agreement, Supplier provides Buyer with a valid and official certificate or other documentation issued by the relevant taxing authority for a lower rate of Withholding Taxes to be applied on the payments made by Buyer to Supplier, then Buyer will apply such lower rate on Withholding Taxes in accordance with such certificate or documentation. For the avoidance of doubt, Supplier will be liable to pay any Withholding Taxes under applicable law whether or not Buyer withholds.
- (C) Except for taxes stated above, each party is responsible for its own respective income taxes or taxes based on gross revenues or gross receipts.

5. INVOICING AND PAYMENT

- 5.1 Buyer will make payment within 60 days from the date of invoice.
- 5.2 Original invoices or packing lists will be submitted and will include: purchase agreement number from the Purchase Order, Purchase Order number, line item number, Release number, part number, complete bill to address, description of Items, quantities, unit price, extended totals, and any applicable tax or other charges. All costs forwarded to Buyer for reimbursement of expenses agreed under the terms of this Purchase Order will be net of any reclaimable Value Added Taxes ("VAT") incurred on such expenses. Buyer's payment will not constitute acceptance.
- 5.3 Supplier will indemnify, defend Buyer and its customers at Buyer's discretion, and hold Buyer and its customers harmless from and against any allegation arising from or in connection with payments or expenses associated with Supplier's vendors or subcontractors, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation.
- 5.4 Supplier agrees to invoice Buyer no later than 180 days after completion of Services or shipment of Items. Buyer will not be obligated to make payment against any invoices submitted after such period.

6. TERMINATION

- 6.1 Buyer may terminate this Purchase Order at any time for its sole convenience by giving written notice of termination to Supplier. On Supplier's receipt of such notice, Supplier will, unless otherwise specified in such notice, immediately stop all work hereunder, cause all of its suppliers or subcontractors to cease all related work, and, upon Buyer's request, return all materials provided to Supplier by Buyer under this Purchase Order.

- 6.2 There will be no charges for termination of orders for Items or for Services not yet provided. Buyer will be responsible for payment of authorized Services and Items already provided by Supplier but not yet invoiced. Notwithstanding anything to the contrary, Supplier will not be compensated in any way for any work done after receipt of Buyer's notice, nor for any costs incurred by Supplier's vendors or subcontractors after Supplier receives the notice, nor for any costs Supplier could reasonably have avoided.
- 6.3 The parties agree that TIME IS OF THE ESSENCE as to the delivery of Items and performance of Services under this Purchase Order. Accordingly, the parties agree that Supplier's failure to meet the delivery dates in the Purchase Order will be considered a material breach of contract and Buyer may terminate: (1) this Purchase Order, (2) any portion of a Release, (3) the order for the Item, and (4) any subsequent Releases, without any liability for standard or custom Items. Furthermore, the parties agree that Buyer never acquiesces to Supplier's failure to meet the delivery dates in the Purchase Order and that Buyer's decision not to terminate due to Supplier's failure to meet the delivery dates in this Purchase Order in no way establishes a course of performance or course of dealing between the parties. In the event that Buyer does not terminate due to Supplier's failure to meet the delivery dates in the Purchase Order Supplier agrees that Buyer's actions were taken only to preserve the parties' business relationship.

7. TENDER, RELEASES, AND SCHEDULING

- 7.1 Any forecasts provided by Buyer are for planning purposes only and do not constitute a Release or other commitment by Buyer.
- 7.2 If Supplier is unable to make the scheduled delivery of Items or promptly perform Services described in this Purchase Order, Supplier will notify Buyer in writing with the reasons for such inability to deliver or perform. The failure of Supplier to give such notice to Buyer will constitute the acceptance of this Purchase Order and these Purchase Order terms and conditions.
- 7.3 Supplier will deliver Items per the Release schedule and will accept Buyer's return of defective or non-conforming shipments at Supplier's risk and expense. The obligations in this clause will survive termination of this Purchase Order for Items purchased but not received prior to the termination.
- 7.4 Buyer may reschedule any Release in whole or in part prior to the Release date at no additional charge.
- 7.5 Buyer may place any portion of a Release on hold by notice that will take effect immediately upon receipt. Releases placed on hold will be rescheduled or terminated in accordance with the Termination section of the Purchase Order within a reasonable time.
- 7.6 If for any reason Supplier discontinues the manufacture of any Item during the term of this Purchase Order or within one year after the final delivery under this Purchase Order, Supplier will give Buyer at least one year prior written notice of such Item discontinuance, during which time Buyer will have the option to place a final Release for such Items for delivery to Buyer within an agreed upon period. If any warranty return claims are made for such discontinued Items, then such returns will be subject to the warranty provisions of the Acceptance and Warranty section of this Purchase Order.

8. INSPECTION AND TESTING OF ITEMS

- 8.1 Buyer or its designee may inspect and test all Items at reasonable times before, during, and after manufacture. All Items will be received subject to Buyer's inspection, testing, approval, and acceptance at Buyer's premises notwithstanding any inspection or testing at Supplier's premises or any prior payment for such Items. Buyer or its designee may attend and participate in source inspections and testing, and if any inspection or test is performed on Supplier's premises, Supplier will provide Buyer or its designee with reasonable access to Supplier's facilities and reasonable assistance at no additional charge to Buyer. All related goods and services necessary for any installation or Buyer's process qualification at Buyer's

designated facility, including but not limited to any sequential testing conducted prior to Final Acceptance, will be provided by Supplier at no additional charge to Buyer. The completion of any inspections, including but not limited to any source inspections, testing, or Final Acceptance by Buyer will not constitute or be interpreted as a waiver of any of Buyer's rights or remedies with regard to any subsequently discovered defect or nonconformity with respect to the quality of the Items. Items rejected by Buyer as not conforming to this Purchase Order or Item specifications, whether provided by Buyer or furnished with the Item, may be returned to Supplier at Supplier's risk and expense and, at Buyer's request, will immediately be repaired or replaced.

9. ACCEPTANCE AND WARRANTY

9.1 Item Warranty

- (A) Supplier warrants to Buyer, its customers and their successors and assigns, that all Items will: (i) be free from defects in material and workmanship, and (ii) comply with any purchase specification or any other mutually agreed on specifications, and (iii) be free from any liens, encumbrances, or claims from third parties (the "Warranty of Title"), and (iv) be new and unused for any purpose, other than routine testing by Supplier to ensure Supplier's compliance with this Purchase Order, and (v) not infringe any Intellectual Property Rights of others (the "Warranty of Non-Infringement").

9.2 Service Warranty

- (A) Supplier warrants to Buyer, its customers and their successors, and assigns, that all Services will: (i) be free from defects in workmanship, (ii) comply with any Statements of Work, (iii) not infringe the Intellectual Property Rights of others, and (iv) be performed in a workmanlike and professional manner in accordance with the highest professional standards in the industry.

9.3 Applicable Item Warranty Period

- (A) Subject to sections B and C below, the warranty period for Items or Services or both (the "Item Warranty Period") will be three years starting on the earlier of: (1) the date of Final Acceptance, or (1) the end of the Acceptance Period.
- (B) Spare Parts replaced during the Item Warranty Period will be warranted for the longer of one year from the date of installation or the remainder of the Item Warranty Period.
- (C) All warranties described in this section are available from Supplier only during the applicable warranty period prescribed above, except the Warranty of Title and the Warranty of Non-Infringement will continue in full force and effect after the expiration of the applicable Item Warranty Period. Buyer may transfer the warranties available in this Purchase Order to a third party in connection with the sale or transfer of the Item.

9.4 Final Acceptance

- (A) All Items and Services are subject to Buyer's or its designee's inspection, testing, approval, and acceptance for a period of 90 days after delivery to Buyer's facility (the "Acceptance Period"), regardless of any inspection, testing, or approval at Supplier's premises or any payment made by Buyer for such Items or Services. Any inspection, testing, approval, or acceptance of the Items or Services, including Final Acceptance, will not constitute a waiver of any of Buyer's rights and remedies available to Buyer under this Purchase Order. Items or Services rejected by Buyer during the Acceptance Period may be, at Buyer's option and Supplier's sole expense: i) returned to Supplier for full purchase price refund to Buyer, including reimbursement for associated costs, such as installation, or ii) repaired or replaced (or for Services, re-performed), or iii) reduced in price by an amount mutually agreed to by the parties, or iv) subject to any other remedy as mutually agreed to by the parties.
- (B) If any special storage instructions apply, the necessary recommended storage conditions to be provided by Supplier.

9.5 Warranty Procedures

- (A) Items or Services subject to a warranty claim by Buyer may, at Buyer's option and Supplier's sole expense: i) be repaired, replaced, or modified (or for Services, re-performed), or ii) be reduced in price by an amount agreed to by the parties, or iii) be subject to any other remedy as mutually agreed to by the parties. Supplier will also be responsible for any other loss or damage incurred by Buyer for any non-conforming Item or Service. Supplier must resolve Buyer's warranty claims within 30 calendar days, unless otherwise mutually agreed by the parties. At Supplier's option, Spare Parts required for Supplier to repair Equipment during the Item Warranty Period may be new or, with Buyer's prior consent, refurbished, but all such parts will be warranted for the unexpired portion of the Item Warranty Period. During the applicable warranty period, Supplier will perform all preventative maintenance according to a jointly agreed on schedule. Unless otherwise agreed by the parties, Supplier will perform warranty work for Buyer at all times during the day or night, including holidays and weekends, with a two hour response time.

10. Returns

- 10.1 Buyer may return a part to Supplier if the part is undamaged and non-custom within 12 months of purchase at no cost to the Buyer.
- 10.2 Between 12-18 months from delivery date Buyer has the right to return the parts with up to 15% restocking fee

11. PRODUCT SPECIFICATION AND IDENTIFICATION

- 11.1 Supplier will not modify the specifications for Items without Buyer's written consent. Supplier will notify Buyer at least one year in advance of any changes in the manufacturing process for Items. Supplier will cooperate with Buyer to provide configuration control and traceability systems for Items supplied under this Purchase Order.

12. PACKING AND SHIPMENT

- 12.1 Supplier will add Customer P/N & VPN to every document sent with the goods.
- 12.2 Item shall be supplied along with supplier COC & inspection reports (in English).
- 12.3 Partial shipment NOT allowed unless approved by Buyer prior to shipment.
- 12.4 Packing CU and Non CU in the same box is forbidden.
- 12.5 Parts must be shipped in the original seller package with the part numbers clearly marked & visible.
- 12.6 All Items and Documentation requiring shipping will be prepared for shipment in a manner that: (i) follows good commercial practice; (ii) is acceptable to common carriers for shipment at the lowest rate; and (iii) is adequate to ensure safe arrival. Supplier will mark all containers with necessary lifting, handling, and shipping information, Purchase Order number, date of shipment, and the names of the Buyer and Supplier. Buyer will notify Supplier of the method of shipment and expected delivery date. If no instructions are given, Supplier will select the most cost effective carrier, given the time constraints known to Supplier. Supplier will ship only the quantity of Items and Documentation specified in the Release. Buyer may return at Supplier's expense any Items and Documentation in excess of the quantity stated in the Release.
- 12.7 As directed by Buyer, freight will be either managed by Supplier or Buyer in accordance with the following terms and conditions:
- (A) For Supplier Managed Freight:
- (1) For non free trade zone factory sites all Items and Documentation will be shipped Delivered Duty Paid, Buyer's dock in ship to address (DDP: <city of ship to address>, Incoterms 2010).
 - (2) For free trade zone factory sites all Items and Documentation will be shipped Delivered at Place, Buyer's dock in ship to address (DAP: <city of ship to address>, Incoterms 2010).
 - (3) Title and Risk of loss will pass to Buyer upon delivery of Items and Documentation to Buyer's dock in ship to address.

- (B) For Buyer Managed Freight:
- (1) All Items and Documentation will be shipped Free Carrier, Supplier's shipment origin (FCA: <city of shipment origin>, Incoterms 2010).
 - (2) Title and Risk of loss will pass to Buyer upon delivery of Items and Documentation to Buyer's agent at the Supplier shipment origin.
- (C) Hazardous Materials Freight: Notwithstanding anything contained in Section 11.2 of this Packing and Shipment Section to the contrary, and regardless of the freight terms listed on any Purchase Order, all Items and Documentation that are Hazardous Materials/Dangerous Goods and are regulated in transportation by international, federal, state or local law will be shipped:
- (1) For non free trade zone factory sites all Items and Documentation will be shipped Delivered Duty Paid, Buyer's site designated in the Release (DDP: <Buyer's site designated in Release>, Incoterms 2010). Title and risk of loss will pass to Buyer upon delivery of Items and Documentation to Buyer's site designated in the Release.
 - (2) For free trade zone factory sites all Items and Documentation will be shipped Delivered at Place, Buyer's site designated in the Release (DAP: <Buyer's site designated in Release>, Incoterms 2010). Title and risk of loss will pass to Buyer upon delivery of Items and Documentation to Buyer's site designated in the Release.
 - (3) Title and risk of loss will pass to Buyer upon delivery of Deliverables and Documentation to Buyer's site designated in the Release.
- 12.8 For shipments to Ireland, Israel, and China, Seller must store at Buyer's designated warehouse or transportation and logistics supplier.
- 12.9 Seller will contract directly with Buyer's chosen third party to return empty, refillable containers to the Seller's manufacturing facility in a timely manner.
- 12.10 Shipment of all Deliverables qualified for Buyer's pre-ship or direct ship programs will be done by Seller in accordance with the latest Buyer chemical and gas quality program Specifications.
- 12.11 For all deliveries to all Buyer's sites (including to Buyer's designated warehouse or transportation and logistics supplier), Seller will be responsible for all Seller's activities, including manufacture, storage, transport, and delivery of Deliverables to Buyer. If Buyer must deploy emergency, safety, or materials personnel in response to an emergency or incident of non-compliance with a Buyer or regulatory procedure involving Deliverables provided under this Agreement, the parties agree that they will review the facts of the incidents promptly and in good faith to determine (i) whether the deployment was necessary, and (ii) whether the proximate cause of such emergency or non-compliance was Seller's acts or failure to act. If the parties answer the above questions in the affirmative, then Seller will reimburse Buyer for reasonable and actual costs incurred by Buyer in deploying personnel. This provision does not limit any other rights or remedies Buyer may have.

13. CONFIDENTIALITY AND PUBLICITY

- 13.1 Each party agrees to maintain the other party's information in accordance with the terms of the Corporate Non-Disclosure Agreement "CNDA" (if applicable), and any other applicable nondisclosure agreement, between the parties.
- 13.2 Neither party may use the other's name or trademarks or those of its customers in advertisements, news releases, publicity statements, web sites, press releases, interviews, articles, brochures, banners, letterhead, business cards, project reference, client listings or financial statement filings or disclose the

existence of this Purchase Order, nor any of its details or the existence of the relationship created by this Purchase Order to any third party, other than a Buyer affiliate, without the written consent of the other party. Notwithstanding the Termination of Obligation of Confidentiality terms as set forth in the CNDA, and any other applicable nondisclosure agreement, the parties agree that neither party will disclose the existence of this Purchase Order, nor any of its details or the existence of the relationship created by this Purchase Order, to any third party without the specific, written consent of the other. If disclosure of this Purchase Order or any of the terms is required by applicable law, rule, or regulation, or is compelled by a court or governmental agency, authority, or body: (i) the parties will use all legitimate and legal means available to minimize the disclosure to third parties of the content of the Purchase Order, including without limitation seeking a confidential treatment request or protective order; (ii) the party compelled to make disclosure will inform the other party at least ten business days in advance of the disclosure; and (iii) the party compelled to make disclosure will give the other party a reasonable opportunity to review and comment on the disclosure, and any request for confidential treatment or a protective order pertaining thereto, prior to making such disclosure. Notwithstanding the foregoing obligations, the parties may disclose this Purchase Order in confidence and only to the extent necessary in connection with obtaining services from their respective legal counsel, accountants, bankers, auditors, agents, consultants, and financing sources provided these third parties are bound by confidentiality restrictions that are at least as restrictive as the CNDA and any other applicable nondisclosure agreement between Buyer and Supplier.

14. PRIVACY

14.1 For the purposes of this Privacy section only, the following definitions apply:

- (A) **"Data Controller"** is a person or entity who (either alone or jointly with others) determines the purposes for which and the manner in which Personal Information is to be processed.
- (B) **"Data Processor"** is a person or entity who processes personal information on behalf of a Data Controller. In this Agreement, Supplier is the Data Processor.
- (C) **"Data Subject"** is the individual to which the Personal Information relates.
- (D) **"Personal Information"** means any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, by reference to an identification number or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity of which Buyer is the Data Controller and in relation to which Supplier is providing Items or Services under this Agreement.
- (E) **"Processing of Personal Information"** means any operation or set of operations which is performed upon Personal Information, whether or not by automated means, including but not limited to collection, recording, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, deleting or destruction.
- (F) **"Processing Country"** means the country where the Personal Information is to be processed by the Supplier. Unless otherwise agreed to in writing by Buyer, it is the country where the Supplier is located as specified in this Agreement.
- (G) **"Data Breach"** means any unauthorized or unlawful processing, loss, disclosure, destruction, theft, or damage of any of the Personal Information.

14.2 Supplier must process the Personal Information only to the extent, and in such manner, as is necessary to provide the Items or Services under this Agreement and in accordance with Buyer's instructions from time to time. Supplier will not process the Personal Information for any other purpose.

14.3 Supplier must promptly comply with any request from Buyer requiring Supplier to amend, transfer or delete the Personal Information. In any event, Supplier must permanently delete Personal Information within 30

days after the Personal Information is no longer being actively used in fulfilling Supplier's obligations to Buyer under this Agreement.

- 14.4 If Supplier collects Personal Information on behalf of Buyer, and Buyer has given notice to Supplier that Buyer will use the Personal Information, Supplier will submit Personal Information to Buyer only if the Data Subject has agreed to such use of their Personal Information by opting in or similar method of consent, or as otherwise directed by Buyer.
- 14.5 Supplier must not, except at the request of Buyer or with Buyer's prior written consent:
 - (A) transfer the Personal Information outside the Processing Country; or
 - (B) disclose the Personal Information to anyone but Buyer; or
 - (C) Authorize any third party or sub-contractor to process the Personal Information.
- 14.6 If Supplier receives any communication relating to the Processing of the Personal Information Supplier must immediately notify Buyer and must fully cooperate and assist Buyer in addressing the communication.
- 14.7 Supplier must take appropriate physical, technical and administrative security measures to protect the Personal Information against any Data Breach. Supplier must notify Buyer immediately if Supplier becomes aware of any Data Breach and fully cooperate with Buyer in investigating the Data Breach. That assistance may include: providing Buyer with physical access to the facilities and operations affected; facilitating interviews with Supplier's employees and others involved in the matter; making available to Buyer all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards or as otherwise required by Buyer; and providing any other assistance Buyer may reasonably require.
- 14.8 Supplier must not subcontract or assign the Processing of Personal Information without advance written approval from Buyer. If such approval is granted, Supplier agrees to: inform Buyer of the identity of the subcontractor; implement privacy and data security provisions with the subcontractor at least as comprehensive as those in this Agreement and in accordance with good industry practice; and at all times be fully responsible for the actions of the subcontractor and indemnify, defend Buyer at Buyer's discretion, and hold Buyer harmless from and against any allegation arising from or in connection with the acts or omissions of the subcontractor, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation.
- 14.9 Supplier's failure to comply with any of the provisions of this Section is a material breach of this Agreement. Based upon the material breach, Buyer may terminate the Agreement effective immediately upon written notice to Supplier without further liability or obligation of Buyer and without prejudice to any other legal or equitable remedies available to Buyer.

15. INTELLECTUAL PROPERTY RIGHTS INDEMNIFICATION

- 15.1 General
 - (A) Supplier will indemnify, defend Buyer and its customers at Buyer's discretion, and hold Buyer and its customers harmless from and against any allegation that Buyer has violated a third party's Intellectual Property Right in connection with any Service or Item, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation.
- 15.2 Notice
 - (A) Buyer will notify Supplier in writing of any allegation for which it seeks indemnification from Supplier. Any delay in this notice will not relieve Supplier of its indemnity obligations unless the delay causes Supplier to forfeit material rights and defenses it would have otherwise been able to assert on behalf of Buyer.
 - (B) Delay in delivery times beyond the delivery date specified in the order will be subject to penalties

as follows: 4% for one week delay, after which an additional 1% per day will be charged up to a maximum of 14 days. Upon delay in delivery of more than 14 days IMS retains the right to cancel the order.

15.3 Defense

(A) Buyer Defends

(1) Buyer has the right to defend, control, and settle any allegation, at its discretion, without prejudice to its right to recover all losses, liabilities, and costs (including attorneys' fees) from Supplier. If Buyer defends, then Supplier may retain separate counsel, at its own expense, and participate in the defense, under the direction of Buyer, who will maintain sole control of the defense.

(B) Supplier Defends

(1) If Buyer provides written notification to Supplier requesting Supplier to assume the defense, then Supplier will promptly retain competent legal counsel that is acceptable to Buyer, assume the defense, solely control the defense of the allegation, and pay all defense costs (including attorneys' fees). If Supplier defends, then Buyer may retain separate counsel, at its own expense, and participate in the defense, under the direction of Supplier, who will maintain sole control of the defense. Supplier will not settle any allegation without Buyer's prior written authorization. Supplier will solely incur all liability for any settlement made without Buyer's prior written consent. If Supplier settles the allegation, then Supplier will also obtain an unconditional liability release for Buyer for any liability arising from the allegation. Supplier will not disclose any settlement terms nor authorize the party who asserted the allegation to disclose any settlement terms without first obtaining Buyer's prior written permission, which Buyer may withhold in its sole discretion.

15.4 Injunction Mitigation

(A) In addition to Supplier's obligations in previous sections, if Buyer's actions with the Service or Item are enjoined, Supplier will reimburse Buyer and its customers for all of Buyer's and its customers' costs reasonably necessary for it to purchase an alternative Service or Item required to fulfill Buyer's requirements, and in addition, Supplier will, at its expense, provide one or more of the following remedies:

- (1) procure for Buyer the right to continue Buyer's and its customers' actions with the enjoined Service or Item without restriction; or
- (2) replace the enjoined Service or Item with a Buyer approved Service or Item that (i) does not have restrictions on Buyer's and its customers' actions, (ii) provides the same or better features, performance and functions as the original Service or Item, and (iii) meets the requirements of this Agreement; or
- (3) modify the enjoined Service or Item so that (i) the Service or Item becomes non-infringing, (i) Buyer can continue Buyer's and its customers' actions with the Service or Item without restriction on Buyer's and its customers' actions, (iii) the modified Service or Item provides the same or better features, performance and functions as the original Service or Item, and (iv) the modified Service or Item meets the requirements of this Agreement; or
- (4) pay for disposal of the enjoined Service or Item and refund the full purchase price of such Service or Item.

15.5 Each party's rights and obligations under this Intellectual Property Rights Indemnification section is expressly in lieu of any other form of indemnity that may be available under the Uniform Commercial Code or the United Nations Convention on Contracts for the International Sale of Goods.

16. SUPPLY LINE PROTECTION

16.1 Supplier covenants and agrees not seek or enforce an injunction which would have the effect of prohibiting

or placing conditions upon the use of any third party products or services ("Third Party Products") in connection with the development, manufacture, testing, assembly, sale, use, or distribution of any Intel Corporation product, nor seek damages from Buyer or its customers or any Buyer or its customers affiliate or any of their customers in connection with any use or sale of any Buyer product by virtue of the use, sale, or distribution of Third Party Products by Buyer, its customers or their affiliates. This Purchase Order may be pleaded as a complete defense to any action, suit or claim attempted in breach of this clause, and may be used to obtain an injunction against any such action, suit, claim or other proceeding of any type which may be prosecuted, initiated, or attempted in violation of the terms hereof. This covenant will be binding on Supplier's successors, transferees and assignees of and exclusive licensees to Supplier's Intellectual Property Rights.

17. HAZARDOUS MATERIALS

- 17.1 If any Items or Services provided to Buyer include Hazardous Materials, Supplier represents and warrants that, before delivery of the Item or Service, Supplier will: 1) provide Buyer with Material Safety Data Sheets (MSDS) and other documentation reasonably necessary to enable Buyer to comply with the applicable laws and regulations, and 2) obtain prior written approval from Buyer's Site Environmental, Health, and Safety (EHS) organization, and 3) certify in writing that the Items or Services supplied to Buyer comply with all applicable requirements of the most current revision of Environmental Product Content Specification 18-1201 at <http://supplier.intel.com>.
- 17.2 If the items ordered are ESD sensitive, appropriate anti-static protective care, handling, packaging and warning label are strictly required.
- 17.3 If the items ordered are ESD & moisture sensitive appropriate anti-static care as well as moisture barrier bag packaging and warning label are strictly required.
- 17.4 Supplier will be fully responsible for, indemnify, defend Buyer and its customers at Buyer's discretion, and hold Buyer and its customers harmless from and against any allegation arising from or in connection with: 1) Supplier's failure to comply with the requirements of section 15.1, or 2) Supplier's handling, transportation, provision, or use of such Hazardous Materials, including a failure to comply with any applicable law or regulation relating to such Hazardous Materials, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation.
- 17.5 Items returned to Supplier will be decontaminated by Buyer from Hazardous Materials to a practical and reasonable degree and as required by applicable law or regulation, except where Supplier is financially responsible for shipping Items returned to Supplier, then Supplier will be responsible for their decontamination. Where Buyer performs the decontamination, and subject to Supplier's written request, Buyer will provide documentation to Supplier that the returned Items have been decontaminated.

18. COMPLIANCE WITH LAWS AND RULES

- 18.1 Supplier represents and warrants that it will comply with all applicable laws, statutes, regulations, rules, ordinances, codes, and standards, including but not limited to any export laws of the U.S. and abroad, (collectively referred to as "Applicable Laws"), and that Supplier will obtain at its expense any permits, approvals, licenses, authorizations, or consents necessary for Supplier to deliver the goods and services provided to Buyer during the term of this Purchase Order. Supplier agrees to comply with all rules, regulations, policies, and requested audits described at <https://supplier.intel.com/>, including but not limited to the Electronic Industry Code of Conduct (EICC). Additionally, for services in the U.S., Supplier agrees not to provide foreign nationals (non U.S. citizens or U.S. permanent residents) from controlled countries as employees or contractors for work on any Buyer site unless that foreign national is covered under a valid U.S. Export License or is not exposed to controlled technology. For services outside the U.S., Supplier agrees not to provide foreign nationals from controlled countries as employees or contractors for work on any Buyer site unless that foreign national is a citizen of the country of that Buyer site, is covered under a

valid U.S. Export License, or is not exposed to controlled technology. Supplier will perform only those Services ordered by Buyer and will work only in the areas designated by Buyer for such Services. Supplier will perform all work in accordance with safe working procedures and will keep its work area clean and neat.

18.2 Anti-corruption Laws

- (A) In this Anti-corruption Laws section of the Purchase Order, the term “Included Scope” means, both collectively and separately, the Purchase Order and the portions of Supplier’s and Buyer’s respective businesses that are involved in it.
- (B) In this Anti-corruption Laws section of the Purchase Order “Anti-Corruption Laws” means, both collectively and separately, any anti-corruption, anti-bribery or similar governmental ethics and transparency laws that have particular jurisdiction or that govern the Included Scope in any general manner. Although Supplier and Buyer are each responsible for determining the extent and applicability of Anti-Corruption Laws, the US Foreign Corrupt Practices Act of 1977 (the “FCPA”) and the UK Bribery Act 2010 are both expressly included in the scope of “Anti-Corruption Laws” regardless of Buyer’s or Supplier’s actual residency or the actual location that Services are performed and received or that Items are made, delivered and received under the Purchase Order.
- (C) Supplier and Buyer represent and warrant to each other that, with respect to the Included Scope, on an ongoing basis they have not and will not:
 - (1) violate any Anti-Corruption Laws; and
 - (2) directly or indirectly make any offer, payment, promise to pay, or authorized payment, or offered a gift, promised to give, or authorized the giving of anything of value to any Government Official (defined as any officer, employee or person acting in an official capacity for any government department, agency or instrumentality, including state-owned or -controlled companies, and public international organizations, as well as a political party or official thereof or candidate for political office) or any other person while knowing or having reason to know that all or a portion of such money, gift or thing of value will be offered, paid or given, directly or indirectly, to any Government Official, for the purpose of (1) improperly influencing an act or decision of the Government Official in his or her official capacity, (2) inducing the Government Official to do or omit to do any act in violation of the lawful duty of such official, (3) securing an improper advantage, or (4) improperly inducing the Government Official to use his influence to affect or influence any act or decision of a government or instrumentality, in order to assist Buyer or any of its subsidiaries or affiliates in obtaining or retaining business.
- (D) Supplier represents that, unless disclosed to Buyer in a separate written statement, none of its employees, directors, officers or principals is a Government Official with jurisdiction or influence over the Included Scope. Supplier must notify Buyer in writing within five business days if at any time during the term of this Purchase Order any of its employees, directors, officers or principals is named, appointed, or otherwise becomes a Government Official with jurisdiction or influence over the Included Scope.
- (E) If Supplier learns or comes to have reason to know of any payment or transfer (or any offer or promise to pay or transfer) in connection with the Included Scope that would violate Anti-Corruption Laws, it must immediately disclose it to Buyer.

18.3 Federal Contract Requirements

Buyer may resell Product’s to Intel Corporation. Intel is a federal contractor and therefore, subject to the oversight of the federal Office of Federal Contract Compliance Programs (“OFCCP”). As applicable, this contractor (Buyer) and subcontractor (Supplier) shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities,

and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

18.4 Conflict Minerals

(A) For the purposes of this Conflict Minerals section only, the following definitions apply:

“Conflict Minerals” means cassiterite, columbite-tantalite, gold, and wolframite; their derivatives including the 3Ts (tantalum, tin, and tungsten); and, any other mineral, derivative, or ore that the Organisation for Economic Co-operation and Development (OECD), United States Securities and Exchange Commission (SEC), United States government, or United States Secretary of State considers to be directly or indirectly financing conflict in the Covered Countries.

“Covered Countries” means the Democratic Republic of Congo (DRC) and any adjoining country that shares an internationally recognized border with the DRC.

(B) Buyer may resell Product's to Intel Corporation. Therefore, Supplier agrees to fully comply with and follow Intel's policies relating to Conflict Minerals, including the Conflict Minerals Reporting section of the Environmental Product Content Specification 18-1201, all of which are set forth at <http://supplier.intel.com>. To the extent Buyer's compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act requires disclosure of Buyer's and its customer's relationship with Supplier and Supplier's compliance with Intel's Conflict Minerals policies, then any applicable confidentiality obligations set forth in this or any other agreement are expressly waived with respect to such disclosures.

19. CUSTOMS CLEARANCE

19.1 Upon Buyer's request, Supplier will promptly provide Buyer with a statement of origin for all Items and with applicable customs documentation for Items wholly or partially manufactured outside of the country of import.

20. GENERAL INDEMNIFICATION

20.1 Except to the extent caused by Buyer's negligence or willful misconduct, Supplier will indemnify, defend Buyer and its customers at Buyer's discretion, and hold Buyer and its customers harmless from and against any allegation arising from or in connection with the development and manufacture of Items or Services or performance of Services by Supplier, its employees, officers, agents, representatives, or subcontractors, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation. Supplier will maintain, at its sole cost and expense, customary insurance coverage and will name Buyer as additional insured.

21. RETENTION AND AUDITS

21.1 Supplier will maintain complete and accurate records of all work associated with the performance of this Purchase Order, including but not limited to, the Items tendered, Services performed, work conducted, processes used, personnel involved, and deliverables performed under this Purchase Order, for a period of seven years after the completion of such Services, delivery or performance of Items, or the expiration of this Purchase Order, whichever occurs last.

21.2 To ensure compliance with the terms of this Purchase Order, minimize supply chain risk, ensure quality, secure supply, or ensure safety of Items purchased from or offered for sale by Supplier, Supplier will fully cooperate with Buyer, or a third party designated by Buyer, who may at any time use reasonable means to inspect Supplier's work, documents, property, assets, records, and communications. Inspections may be made at Buyer's written request for any reason in good faith, conducted in accordance with the terms of this Purchase Order, and not unreasonably interfere with Supplier's normal business activities or operations. Within two weeks of receipt of Buyer's written request for such an inspection, Supplier will

employ commercially reasonable efforts to disclose, make available, or obtain and provide any necessary consent for Buyer, third party, or authorized government authority to conduct their inspection. Furthermore, should any third party inspection find that Supplier is not in compliance with the terms of this Purchase Order Supplier will reimburse Buyer for all costs associated with such inspection.

22. SOFTWARE AND DOCUMENTATION

- 22.1 Supplier hereby grants to Buyer and its customers a fully paid, worldwide, royalty-free, non-exclusive, perpetual, irrevocable license under Supplier's Intellectual Property Rights to reproduce, publicly perform, publicly display, prepare derivative works of, distribute, use, and disclose the Software and Documentation. In connection with Buyer's transfer of the Items to a third party, Buyer may also transfer the Software and Documentation. Supplier agrees at no cost to transfer the license to the Software to the new owner under the same terms and conditions as granted to Buyer under this Purchase Order. Notwithstanding anything to the contrary in this Purchase Order, Supplier authorizes Buyer to disclose the terms of this section to third parties in connection with the transfer of Items.

23. NEW DEVELOPMENTS

- 23.1 Default Terms
- (A) The parties agree that no New Developments are contemplated at this time. However, should any New Developments arise during the term of this Agreement, the terms and conditions of this New Developments section will apply absent a separate written agreement signed by the parties.
- 23.2 No Conflicts
- (A) Supplier represents and warrants that Supplier has no outstanding agreement or obligation, and will not enter any agreement or undertake any obligation that is or will be in conflict with any of the provisions of this Agreement, or that would adversely affect Buyer's rights to New Developments.
- 23.3 Assignment
- (A) Supplier hereby fully and irrevocably assigns and agrees to assign to Buyer, without any additional compensation, all right, title, and interest in and to all Intellectual Property Rights to New Developments. This assignment includes all Moral Rights to New Developments. If such rights cannot be assigned pursuant to applicable law, Supplier agrees not to enforce such Moral Rights. Supplier will not register, file for, or obtain any rights in any New Developments in Supplier's or any third party's name.
- 23.4 License Regarding any Retained Rights
- (A) If under any applicable law or for any other reason, Supplier retains any right, title, or interest in any Intellectual Property Rights to New Developments, Supplier hereby grants to Buyer, without limitation or additional remuneration: (1) a worldwide, exclusive, royalty-free, irrevocable, perpetual, transferable license, with the right to sublicense, to make, have made, use, import, sell, offer to sell any New Developments and practice any method or process in connection with the New Developments, and (2) a worldwide, exclusive, royalty-free, irrevocable, perpetual, transferable license, with the right to sublicense, to disclose, copy, distribute, prepare derivative works of, display, perform, and otherwise exploit the New Developments.
- 23.5 Additional Assistance
- (A) Supplier agrees to execute and deliver to Buyer, whether during the term of this Agreement or thereafter, any additional documents necessary for Buyer to confirm or register its Intellectual Property Rights in the New Developments under the law of any country. Supplier further agrees to assist Buyer in enforcing all Intellectual Property Rights and other ownership rights to protect Buyer's exclusive interest in New Developments.

- 23.6 Third Party Technology
- (A) Supplier represents, warrants, and agrees that it will not incorporate any third party Technology into any New Developments without first notifying Buyer in writing and obtaining the written consent of Buyer. If Supplier incorporates any third party Technology into any New Developments or Services, Supplier warrants and represents that Supplier has obtained the necessary Intellectual Property Rights for Buyer to exercise all rights granted by Supplier under this Agreement.
- 23.7 Supplier Background Technology
- (A) Buyer agrees that this Agreement does not alter or amend Supplier's ownership of Intellectual Property Rights with respect to Supplier Background Technology. Supplier represents, warrants, and agrees that it will not incorporate any Supplier Background Technology into any New Developments without first notifying Buyer in writing and obtaining the written consent of Buyer. With respect to any Supplier Background Technology that Supplier incorporates, or instructs or authorizes Buyer to incorporate, into the New Developments, Supplier hereby grants to Buyer, without limitation or additional remuneration: (1) a worldwide, non-exclusive, royalty-free, irrevocable, perpetual, transferable license, with the right to sublicense, to make, have made, use, import, sell, offer to sell any New Developments and practice any method or process in connection with New Developments; and (2) a worldwide, non-exclusive, royalty-free, irrevocable, perpetual, transferable license, with the right to sublicense, to disclose, copy, distribute, prepare derivative works of, display, perform and otherwise exploit any Supplier Background Technology that Supplier incorporates, or instructs or authorizes Buyer to incorporate, into New Developments.
- 23.8 Third Party Agreements
- (A) Supplier represents and warrants that all employees, contractors, and other third parties who perform work for Supplier in connection with any Items or Services, will have entered into written agreements with Supplier or are otherwise engaged under conditions which ensure, as a matter of fact and law, that the Intellectual Property Rights to the work they do is owned by Supplier and subject to the terms and conditions of this Agreement.
- 23.9 Progress Reports
- (A) Supplier will provide Buyer with written or oral progress reports on all New Developments at such times as Buyer may specify.
- 23.10 Document Marking; Confidentiality
- (A) New Development Documentation will be marked "IMS Proprietary Information" and "IMS Confidential", and Supplier must provide all such New Development Documentation to Buyer no later than 15 days from Buyer's request. Any New Developments and New Development Documentation shall be considered the confidential information of Buyer, regardless of whether or not they are so marked.

24. MERGER, MODIFICATION, WAIVER, REMEDIES AND SEVERABILITY

- 24.1 This Purchase Order including the CNDA, and the addenda attached hereto, contains the entire understanding between Buyer and Supplier with respect to the subject matter hereof and merges and supersedes all prior and contemporaneous agreements, dealings and negotiations. No modification, alteration, or amendment will be effective unless made in writing, dated and signed by a duly authorized representative of each respective party. Any additional or different terms made by Buyer through Buyer's Electronic Ordering Systems will be effective without any additional signature or writing requirements.
- 24.2 No waiver of any breach hereof will be held to be a waiver of any other subsequent breach.

- 24.3 Except as expressly provided otherwise in this Purchase Order, Buyer's rights and remedies herein are in addition to any other rights and remedies provided by law or in equity.
- 24.4 If any provision of this Purchase Order is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination will not affect the validity of the remaining provisions unless Buyer determines in its discretion that the court's determination causes this Purchase Order to fail in any of its essential purposes.

25. ASSIGNMENT

- 25.1 Buyer may assign or delegate all, or any part, of its rights or obligations under this Purchase Order to any or all of its subsidiaries. Otherwise, neither party may assign or factor any rights in, nor delegate, any obligations or rights under this Purchase Order without the prior written consent of the other party. For purposes of this section, the acquisition, merger, consolidation or change in control of Supplier or any assignment by operation of law will be considered an assignment of this Purchase Order that requires Buyer's prior written consent. Buyer may cancel this Purchase Order for cause should Supplier attempt to make an unauthorized assignment of any right or obligation arising under this Purchase Order.

26. CHOICE OF LAW AND FORUM

- 26.1 All matters arising out of or related to this Purchase Order, including without limitation all matters connected with its performance, will be construed, interpreted, applied and governed in all respects in accordance with the laws of the United States of America and the State of Delaware, without reference to conflict of laws principles. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Purchase Order. All disputes and litigation arising out of or related to this Purchase Order, including without limitation matters connected with its performance, will be subject to the exclusive jurisdiction of the courts of the State of Delaware or of the Federal courts sitting therein. Each party hereby irrevocably submits to the personal jurisdiction of such courts and irrevocably waives all objections to such venue.

27. DISPUTE RESOLUTION

27.1 Dispute Resolution Process

- (A) Subject to the Trade Secrets and Breach of Confidentiality Exception section below, any dispute arising out of or relating to this Agreement, whether based on contract, tort, or any other legal or equitable theory, will be resolved as follows: Either party will notify the other party of the dispute, and provide a detailed description of the basis for the dispute as well as any relevant supporting documents. Senior management of each party will then attempt to resolve the dispute. If the parties do not resolve the dispute within 45 days of the initial dispute notice, either party may provide notice of its demand for formal dispute resolution through non-binding mediation. Within 30 days after the formal dispute resolution demand, the parties will meet for one day with an impartial mediator selected by mutual agreement and consider dispute resolution alternatives other than litigation. If the parties cannot agree on a mediator, they will each select one nominator, who must not at that time be employed by either party, and the two nominators will agree on and appoint the mediator. If the parties do not resolve the dispute or agree on an alternative method of dispute resolution within 60 days after the formal dispute resolution demand, either party may begin litigation proceedings. Either party at any time may seek an injunction or other equitable remedies against the other party for misappropriation of trade secrets or breach of confidentiality obligations without complying with the dispute resolution process in the Dispute Resolution Process section.

28. SPECIFIC PERFORMANCE

- 28.1 Notwithstanding anything to the contrary in this Purchase Order, the failure of Supplier to provide an Item or perform a Service in accordance with the terms and conditions contained in this Purchase Order after the acceptance of a Release would cause irreparable damage to Buyer for which monetary damages would

not provide an adequate remedy. Accordingly, in addition to any other remedy to which Buyer may be entitled, at law or in equity, Buyer will be entitled to injunctive relief to prevent breaches of the provisions of this Purchase Order by Supplier, and an order of specific performance to compel performance of such obligations in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction.

29. ELECTRONIC SYSTEMS

- 29.1 Supplier is hereby given notice and agrees that the persons responsible for using any Electronic Ordering Systems originating from Supplier on behalf of Buyer do not have any actual or apparent authority to create legally binding obligations which are different from the terms and conditions contained in this Purchase Order.
- 29.2 The parties agree that any different or additional terms and conditions offered by Supplier through an Electronic Ordering System will not be legally binding on Buyer, and that any of Supplier's "click to accept" arrangements or Electronic Ordering Systems will not be legally binding on Buyer.
- 29.3 The parties agree to accept electronic records and electronic signatures (as such terms are defined in the U.S. Electronic Signatures in Global and National Commerce Act) relating to transactions contemplated by this Purchase Order.
- 29.4 Supplier represents and warrants to Buyer that any of Supplier's personnel using electronic signatures, electronic approvals, or "click to accept" type arrangements originating from Buyer, to accept purchase specifications, configuration specifications, or Releases, have the authority to accept such specifications or Releases.
- 29.5 If a party has adopted an electronic identifier such as a digital signature, or electronic approval for a specification, the other party is entitled to rely on the authenticity of documents signed by, approved, or associated with that electronic identifier unless that party had previously received written notification stating otherwise from the party using the electronic identifier.

30. QUOTATIONS

- 30.1 Any quotation number or any other reference to a quotation on this Purchase Order is for reference purposes only and the quotation terms and conditions will not be legally binding on either party. By shipping Items or performing Services described in this Purchase Order, Supplier thereby accepts Buyer's terms and conditions stated on this Purchase Order and withdraws any other terms and conditions described in Supplier's documents or Supplier's Electronic Ordering Systems. In the event of the existence of any other agreements between the parties, the price for Items and Services described in this Purchase Order will be the lesser of Supplier's quoted price, or the price described in such other agreements between the parties.

31. SURVIVAL

- 31.1 The rights and obligations of the parties contained in the following sections, along with any other right or obligation of a party contained in any Addendum, Statement Of Work or purchase specification, which the parties have indicated an intent to survive after this Purchase Order or by its nature would be reasonably be expected to survive after this Purchase Order, will survive after the delivery of Items to Buyer, performance of Services for Buyer, or the termination of this Purchase Order: Definitions; Pricing and Taxes; Termination; Inspection and Testing of Items; Acceptance and Warranty; Confidentiality and Publicity, Privacy; Intellectual Property Rights Indemnification; Supply Line Protection; Hazardous Materials; Compliance with Laws and Rules; General Indemnification; Retention and Audits; Software and Documentation; New Developments; Merger, Modification, Waiver, Remedies and Severability; Assignment; Choice of Law and Forum; Dispute Resolution; Specific Performance; Electronic Systems; Quotations; Survival.