

# Purchase Order Terms and Conditions

## ARCTIC CAT INC.

**These purchase order terms and conditions (“Terms and Conditions”) are hereby incorporated by reference into and made a part of each purchase order issued to Supplier, or otherwise provided to Supplier by Arctic Cat Inc. (the “Buyer”).**

1. ACCEPTANCE. Each Buyer purchase order (“Order”) shall be deemed accepted by Supplier by shipment of Products (the term “Products” throughout these Terms and Conditions includes without limitation, raw materials, parts, components, intermediate assemblies, vehicles and end products), performance of services, commencement of work on Products, written acknowledgement, or any other conduct of Supplier 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 BUYER, NOTWITHSTANDING BUYER’S ACCEPTANCE OR PAYMENT FOR ANY SHIPMENT OF PRODUCTS OR SIMILAR ACTS OF BUYER. Unless otherwise stated in such Order, each Order is Buyer’s offer to Supplier and does not constitute an acceptance by Buyer of any offer or quotation by Supplier. Any reference herein to any such offer or quotation by Supplier 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 Supplier at such times and places and of such items and quantities as may be specified by Buyer. Time is of the essence for each Order. Shipments of Products in excess or in advance of Buyer’s requirements contained in each Order are at Supplier’s risk. Buyer reserves the right to return to Supplier, at Supplier’s expense, all Products received more than two (2) 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 Supplier fails to meet its scheduled delivery dates and Buyer elects to call for expedited shipments, Supplier will pay the difference between the method of shipping specified and the actual expedited rate incurred. Supplier shall be responsible for any additional charges resulting from any deviation from Buyer’s routing instructions. Buyer’s Transportation Routing Instructions are located at “<http://routingguides.textron.com>”. Should Buyer accept Products which are not delivered on or before the required delivery date, which option Buyer reserves, then Supplier 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 FCA Buyer’s dock (Freight Collect) (Incoterms 2015). All shipments originating outside the U.S. shall be delivered DAP (Freight Collect) (Incoterms 2015). Title and risk of loss shall remain with the Supplier until Products are delivered to the Incoterm delivery point. Notwithstanding such delivery terms, Supplier shall bear the entire risk of loss or damage to Products purchased hereunder from the time that Buyer gives notice of rejection of such Products pursuant to the inspection provisions of the applicable Order. If Supplier encounters or anticipates difficulty in meeting the delivery schedule, Supplier shall immediately notify Buyer in writing, giving pertinent details; provided however, that the receipt of such information shall be for information purposes only and shall not constitute 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 Supplier 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 paragraph 13(A) of these Terms and Conditions. Nothing contained in this paragraph shall prevent termination by Buyer under the provisions of paragraph 13(A) of these Terms and Conditions.

3. SHIPPING INSTRUCTIONS: Supplier agrees to prepare and properly pack, box or crate Products for shipment so as to prevent damage in transit, to comply with Buyer’s shipping instructions and/or routings, and to describe the Products on the bill of lading in conformity with appropriate freight classifications. In addition, Supplier shall specify on each bill of lading, Buyer’s part numbers and the quantity of each item shipped. Any additional charges resulting from failure to comply with this provision, including incidental and consequential damages, shall be charged to Supplier. Each container must be marked to enable identification of contents

and quantities without opening. Packing lists and certifications, when applicable, must accompany each shipment. 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 Supplier to apply Buyer-specified, computer-scannable bar codes on the packing sheets and/or Products containers, then Supplier 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 Supplier for each shipment made pursuant to each Order. One (1) copy of each invoice shall be mailed within three (3) days after the Incoterm delivery date. Invoice date shall not precede the Incoterm delivery 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 Supplier's packing and crating, and for insurance in transit. Buyer shall have no obligation to pay any invoices received by Buyer more than six (6) months after Supplier is required to submit such invoices.

5. **PAYMENT TERMS:** Payment terms shall be 2% 10, net sixty (60) days for U.S. product Suppliers and net average one hundred twenty (120) days for non-U.S. product Suppliers. Any discount terms must be agreed to, in writing, by both parties. Product tooling terms are paid in three equal increments: the first payment upon issuance of the purchase order, the second payment upon completion of the first product produced from the tooling and the final payment upon PPAP approval. Capital payment terms will be paid ninety (90) days after commissioning.

6. **INSPECTION:** Supplier agrees to inspect and test all Products and monitor all services furnished in performance of each Order to insure compliance with the specifications and other requirements of each Order. Supplier will provide any Certificates of Compliance and/or Certificates of Conformance as required by Buyer at Supplier's expense. Supplier agrees to permit inspection, monitoring and testing by Buyer of all Products 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 Products shall be received subject to Buyer's inspection, acceptance or rejection. Inspection or testing of, or payment for, any Products or services shall not constitute acceptance of them. Acceptance by Buyer does not relieve Supplier of liability for defects or any failure to conform to Buyer specifications. Buyer shall have the right to reject any Products 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) Supplier expressly warrants that all Products and services furnished hereunder do not infringe on any patent, copyright or other intellectual property right of any third party and Supplier will convey clear title to Products to Buyer, free of any liens or encumbrances. Products furnished shall strictly conform to all specifications, drawings, samples, or other descriptions furnished, specified or adopted by Buyer and to all other requirements of the Order. Products will be merchantable, of good material and workmanship and free from defect in design, material and workmanship. In addition, Supplier acknowledges that Supplier knows of Buyer's intended use and warrants/guarantees that all Products covered by any Order that have been selected, designed, manufactured or assembled by Supplier based upon Buyer's stated use will be fit and sufficient for the particular purposes intended by Buyer. The warranty period shall be four (4) years from the date of delivery, except that if Buyer offers a longer warranty to its customers, such longer period shall apply. Such warranties, together with Supplier's service warranties and guarantees, if any, shall survive inspection, test, acceptance of, and payment for the Products or services and shall run to Buyer, its successors, assigns, customers at any tier, and all end users.
- (B) Buyer may, at its option: (i) return defective or non-conforming Products for credit or refund (without Supplier having any right to furnish conforming Products), (ii) require prompt replacement or correction of the defective or nonconforming Products, or (iii) have the defective item corrected or replaced at Supplier's expense and deduct the cost thereof from any monies due Supplier. In each instance, Supplier's warranty coverage shall include, without limitation, all component replacement costs of parts; all costs of transportation, including all freight charges, both from and to the Buyer or ultimate end user, including air priority, if requested by the Buyer; and all costs of labor, such as, for

- example, reasonable removal and reinstallation costs, as well as a time allowance for troubleshooting. Reimbursement for any and all labor costs shall be at Buyer's current posted shop rate. Such Products will be held for Supplier's instructions and at its risk, or at Buyer's option, will be returned at Supplier's risk. The return to Supplier of any defective or nonconforming Products and delivery to Buyer of any corrected or replaced Products shall be at Supplier's expense. Buyer's packing sheet, which accompanies Products returned, will indicate whether Products are to be corrected, replaced or credited to Buyer. No Products thus returned will be replaced or corrected by Supplier without Buyer's written instructions. Products 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: (i) replaced forthwith with substitute services which do conform or (ii) terminated. If necessary, Buyer may replace such services from a provider other than Supplier and Supplier shall pay or credit to Buyer on demand all amounts paid by or charged to Buyer for such nonconforming services, all Buyer costs of such replacement services and all costs and expenses suffered or incurred by Buyer on account of Supplier'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, royalty-free license, to make or have made by a third party service provider such modifications to any computer programs provided by Supplier 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 other 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: (A) the method of shipment or packing, (B) place or time of delivery or performance; and (C) the quantities covered by any Order. Notices of changes hereunder shall be delivered to Supplier in writing and Supplier shall be bound by such changes upon receipt of such writing. Supplier 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. Supplier shall not make changes in the specifications, physical compositions of or processes used to manufacture Products (including destroying or moving tooling or equipment from one location to another) without Buyer's prior written consent.
9. INTELLECTUAL PROPERTY:
- (A) Supplier 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 intellectual property right relating to Products 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 Products in combination with other Products as recommended or approved by Supplier. Supplier further agrees to indemnify and hold harmless Buyer and its affiliates and all persons claiming under Buyer in respect of any claims, demands, liabilities, losses, judgments, awards, fines, settlements, court costs, attorney fees, and expenses incurred by reason of such claims, charges or lawsuits. Supplier shall notify Buyer in writing of each such notice or claim of which Supplier has knowledge. Supplier 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.
- (B) With respect to ownership of intellectual property conceived hereunder:
- (i) Supplier agrees to, and hereby does, assign, transfer, and convey to Buyer all of Supplier's right, title and interest in and to any intellectual property conceived, developed, or acquired by Supplier in performing work under each Order.
- (ii) Supplier agrees to disclose promptly to Buyer any invention, patent application, or patent covering an invention to which Buyer is entitled to an assignment under any Order and to

perform any act, including without limitation, executing and delivering upon request any document that Buyer may deem desirable to enjoy the full benefit of the intellectual property.

- (iii) Supplier grants to Buyer, its present and future subsidiaries and controlled companies (“Affiliated Companies”), a non-exclusive, world-wide, paid-up, irrevocable, and perpetual license under any intellectual property right that is now owned or controlled by Supplier, to practice in connection with Buyer’s and its Affiliated Companies’ business, the products, processes, and technology within the scope of each Order, including, without limitation to: (a) make, have made, use, offer to sell, sell, and import any process, machine, manufacture, composition of matter, or any improvement thereof; and (b) reproduce, distribute only in connection with Buyer’s and its Affiliated Companies’ products, display publicly, perform publicly, and make derivative works based upon, any copyrighted work.

The obligations of this paragraph shall survive the cancellation, termination, expiration, or completion of each Order.

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

#### 11. COMPLIANCE WITH LAWS:

- (A) Supplier and all Products shall comply with and be bound by all applicable European Union, local, foreign, United States federal, state, and local laws, including rules, regulations, orders, conventions, ordinances, standards, and prohibitions (collectively, “Law”), that relate to the manufacture, labeling, handling, storage, packaging, transportation, importation, exportation, licensing, approval, sale, reporting, declaration or certification of the Products. This includes, without limitation, the U.S. Toxic Substances Control Act, EU regulations and directives on conformity, EU regulation on hazardous substance, EU regulation on restricted or banned materials, the California Safe Drinking Water and Toxic Enforcement Act of 1986 (“Prop 65”), asbestos restrictions, and Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Conflict Minerals). In addition, Supplier shall comply with and be bound by all applicable laws relating to environmental matters, employee and contractor wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health or safety, and motor vehicle safety.
- (B) Supplier shall, where applicable Law requires, notify and/or act to apply for waivers, exemptions or registrations, or declarations of conformity for chemicals or substances, to support the use or presence of a substance in Products provided to Buyer, and shall keep such waivers, exemptions, registrations, and declarations of conformity in good standing for the period of use (including inventory depletion) of Products, including submitting any updates, revisions, or resubmittals that may be required.
- (C) Supplier agrees to provide all information or data Buyer may reasonably request for Buyer to satisfy its reporting obligations under any Law. Supplier remains responsible for providing this information or data, notwithstanding that Supplier may need to obtain this information from its supply chain to ensure documentation and reporting as required. Supplier shall bear any and all costs and expenses related to compliance.
- (D) Delivery of any Products shall constitute Supplier’s representation to Buyer that Supplier has been and will be in full compliance with all applicable environmental and health and safety Laws, including without limitation:
  - a. Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH).
  - b. Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.
  - c. Regulation (EU) No 528/2012 concerning the market and use of biocidal products (BPR).

- d. Any National legislation implementing the EU Restriction of Hazardous Substances, Waste Electrical and Electronic Equipment Directive, or REACH.
  - e. CE Marking and any related product safety requirements pursuant to any applicable New Approach and Global Approach Directives.
  - f. California Prop 65. Supplier shall ensure that Products are labeled with the Combined Short Form Warning per California Health and Safety Code §25603(b), where a warning is required per Prop 65 regulations. This requirement is in addition to other supplier content, methods and means of communicating a Prop 65 Warning that Supplier deems necessary and appropriate.
  - g. Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- (E) Notwithstanding any other provision of this Agreement, Supplier agrees that it shall not supply or use any of the following in the Products or during the manufacturing of the Products, without the prior written approval of Buyer, which approval is subject to Buyer's sole discretion:
- a. Any asbestos or materials or equipment containing asbestos.
  - b. Products or materials containing chlorofluorocarbons (CFCs).
  - c. Brominated flame retardants, including but not limited to polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDEs).
- (F) Supplier shall not: (i) utilize forced, indentured, or involuntary labor (including prison labor), regardless of its form, (ii) employ any child except as part of a government-approved job training, apprenticeship or similar program, or (iii) engage in abusive employment or corrupt business practices in the manufacture or sale of Products under any Order.
- (G) Supplier shall provide Buyer written notice immediately upon becoming aware that any director, officer or employee of Supplier, or any of its subsidiaries or affiliates, is also a director, officer or immediate family member of any director or officer of Buyer, or any of its subsidiaries or affiliates. As to employees of Supplier only, Supplier shall be required to report this information to Buyer only if the employee (excluding an officer or director of Supplier) is substantively involved in Supplier's business relationship with Buyer or receives any direct or indirect compensation or benefit based on Supplier's business relationship with Buyer.
- (H) Supplier shall comply with the Textron Code of Conduct for Suppliers and Other Business Partners, available at [www.textron.com](http://www.textron.com).
- (I) If Supplier fails to comply with the provisions of this Section 11, Buyer may, by written notice to Supplier, terminate any Order upon a default of the provisions of this paragraph in accordance with paragraph 13(A) of these Terms and Conditions in addition to any other rights or remedies provided by law.

## 12. FORCE MAJEURE:

- (A) Supplier 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 Supplier. 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, 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 Supplier (each a "Force Majeure Event"). Force Majeure Events shall not include any strikes, labor actions or lockouts of Supplier's employees or the employees of Supplier's vendors or subcontractors. Supplier shall notify Buyer in writing within two (2) calendar days of any and all events of Force Majeure.
- (B) If a Force Majeure Event 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 Products or services which have been delivered to and accepted by Buyer prior to Force Majeure notice receipt.

- (C) 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 Supplier.

### 13. TERMINATION AND SETTLEMENT:

#### (A) Termination for Default:

- (i) Buyer may, by written notice of default to Supplier, immediately terminate the whole or any part of any Order itself if Supplier fails to make delivery of the Products or to perform the services required by any Order within the time specified or any written extension thereof. If Supplier 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.
- (ii) In the event Buyer terminates an Order in whole or in part as provided in subparagraph (i) above, Buyer shall have no further obligation to Supplier under the terminated portion of an Order and Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, Products or services similar to those so terminated, and Supplier shall be liable to Buyer for any excess costs.

- (B) Termination for Insolvency: Buyer may immediately terminate any Order without liability to Supplier in any of the following or any other comparable events: (i) insolvency of Supplier, (ii) filing of a voluntary petition in bankruptcy by Supplier, (iii) filing of any involuntary petition in bankruptcy against Supplier, (iv) appointment of a receiver or trustee for Supplier or (v) execution of an assignment for the benefit of creditors by Supplier, provided that such petition, appointment or assignments is not vacated or nullified within fifteen (15) days of such event. Supplier 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 Supplier agrees to stop work immediately as to the terminated portion and to notify subcontractor(s) (if any) to stop work, and protect and preserve all property in its possession in which Buyer has an interest. If any Order is terminated, in whole or in part, for Buyer's convenience, Supplier shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the reasonable cost of Supplier'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 Supplier, either for completed items or in connection with terminated work-in-process, unless Supplier shall establish to Buyer's satisfaction that such completed items, or the work-in-process, including materials, are unusable in connection with Supplier'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 paragraphs 13 (A)-(C), Buyer, in addition to any other rights provided in the Order, may require Supplier to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer, the following: (i) any completed Products; and (ii) such partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") as Supplier has specifically produced or specifically acquired for the performance of such part of such Order as has been terminated. Supplier shall also, upon direction of Buyer, protect and preserve all property in the possession of Supplier in which Buyer has an interest. Payment for completed Products 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 Supplier; failure to agree to such amount shall be a dispute within the meaning of paragraph 21 hereof. Buyer may withhold from amounts otherwise due Supplier for such completed Products 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 Supplier 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. and comparable taxes, if applicable) and applicable import and export customs duties. No charge will be allowed for packing, crating, drayage, or storage. Supplier warrants that prices charged for the Products are not higher than those charged to any other customer, including the government, for Products of like grade and quality in similar quantities.

15. **INDEMNITY:** Notwithstanding anything contained in Supplier's warranty to the contrary, Supplier and Buyer expressly agree that Supplier shall indemnify, hold harmless and defend Buyer, Buyer's affiliates and their respective officers, directors, employees, representatives, agents and insurers, from and against any and all claims, litigation, damages, losses, expenses, attorney fees, court costs, etc., that result from or arise out of incidents, accidents, injuries or deaths to any persons or damage and/or losses to property, that relate to the Products purchased by Buyer from Supplier, and are caused in whole or in part by: (a) Supplier's breach of any term or provision of these Terms and Conditions or any Order, including but not limited to any warranty, whether express or implied; (b) any negligent or willful acts, errors or omissions by Supplier or its employees, officers, agents, representatives or subcontractors in the performance of any Order; or (c) a defect, noncompliance or failure of the Products to meet applicable specifications. This paragraph 15 shall survive the cancellation, 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 Supplier, or any agent or representative of Supplier, to any employee or representative 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 Supplier, 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) Supplier, 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 Supplier, its employees, representatives, or agents violate Buyer's rules, regulations, policies, or procedures, Buyer may, by written notice to Supplier, 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 Supplier expressly agree to exclude from applicability to any Order the United Nations Convention on Contracts for the International Sale of Products, 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 of Minnesota, and without regard to its conflict of laws rules. Buyer and Supplier each submit in any dispute or lawsuit related to or arising out of any Order or the Products or services provided under any Order to the sole and exclusive jurisdiction and venue of either the: (a) Seventh Judicial District Court of Minnesota, Stearns County, or (b) United States District Court for the District of Minnesota. 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. **CUSTOMER 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. Supplier 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 Products to Buyer shall be the responsibility of Supplier unless otherwise indicated in any Order, in which event Supplier shall provide such information as

may be necessary to enable Buyer to obtain such licenses or authorization(s). Supplier shall undertake such arrangements as necessary for the Products to be covered by any duty deferral or free trade zone program(s) of the country of import.

20. **ASSIGNMENTS:** Supplier shall not assign or delegate its obligations or performance of any Order without the prior written consent of Buyer. Proceeds due or to become due under any Order may be assigned by Supplier only with the written consent of Buyer and then provided that payment to an assignee of any claim related to any Order shall be subject to all applicable defenses, reductions and setoffs. Buyer may assign its rights hereunder to any legal entity 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 Supplier shall strive to settle amicably and in good faith any dispute arising in connection with this Order. If representatives of Buyer and Supplier are unable to resolve a dispute within thirty (30) days, Buyer or Supplier may resort to such legal proceedings as may be available to such party, subject to paragraph 17 above. Pending resolution of any dispute hereunder, Supplier shall proceed diligently with the performance of all Orders, including the delivery of Products, in accordance with Buyer's direction.

22. **ENVIRONMENTAL, HEALTH AND SAFETY REQUIREMENTS:** Supplier 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 Products or services under any Order. For Products sold or otherwise transferred to Buyer under any Order containing hazardous materials, Supplier 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 appropriate labeling, whether or not the standard applies to the activities of Supplier. Failure to comply with the provisions of this paragraph will nullify any and all of Buyer's obligations to Supplier.

23. **INSURANCE:** Supplier, and any subcontractors, shall maintain, at its own expense, (i) Commercial General Liability insurance in an amount of at least \$5 million combined single limit per occurrence, (ii) Commercial Automobile Liability insurance in an amount of at least \$1 million combined single limit for bodily injury and property damage, (iii) If applicable, Aviation Products Liability and Completed Operations insurance in an amount of at least \$5 million per occurrence (iv) Workers' Compensation with Statutory Limits for the jurisdiction where the work is to be performed, including Federal Acts if applicable Employer's Liability, \$1 million each person/accident. In states where Workers' Compensation insurance is a monopolistic state-run system (e.g., Ohio, Washington, North Dakota, and Wyoming), Seller shall add Stop Gap Employers' Liability with limits not less than \$0.5 million each accident or disease. All such insurance policies shall expressly waive any right of subrogation against Buyer and its employees, officers, directors, and agents on behalf of itself and its insurers. All coverage shall be with insurers acceptable to Buyer. Supplier shall furnish to Buyer either a certificate showing compliance with these insurance requirements or certified copies of all insurance policies within ten (10) days of Buyer's written request. The certificate will provide that Buyer will receive thirty (30) days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. Supplier's furnishing of certificates of insurance or purchase of insurance shall not release Supplier from any of its obligations or liabilities under any Order.

24. **SUPPLIER'S PROPERTY:** Unless otherwise agreed to by Buyer, Supplier, 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 ("Supplier's Property") necessary for the production of the Products. The cost of changes to Supplier's Property necessary to make design and specification changes authorized by Buyer shall be paid for by Buyer. Supplier shall insure Supplier's Property with full fire and extended coverage insurance for its replacement value. Supplier grants Buyer an irrevocable option to take possession of and title to Supplier's Property used in the production of the Products upon payment to Supplier of its net book value, less any amounts that Buyer has previously paid to Supplier for the cost of such items provided, however, that this option shall not apply if Supplier's Property is used to produce Products that are the standard stock of Supplier or if a substantial quantity of like Products are being sold by Supplier 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 Supplier to perform any Order, or for which Supplier has been reimbursed by Buyer, shall be and remain the property of Buyer and are held by Supplier on a bailment basis ("Buyer's Property"). Supplier 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 Supplier, at its expense, shall not be used by Supplier for any purpose other than the performance of any Order, shall be deemed to be personalty, shall be conspicuously marked by Supplier as the property of Buyer, shall not be commingled with the property of Supplier or with that of a third person, and shall not be moved from Supplier's



premises without Buyer's prior written approval. Buyer shall have the right to enter Supplier's premises at all reasonable times to inspect Buyer's Property and Supplier's records with respect thereto. Upon the request of Buyer, Buyer's Property shall be immediately released to Buyer or delivered to Buyer by Supplier, either: (A) F.O.B. carrier at Supplier's plant, properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property or (B) to any location designated by Buyer, in which event Buyer shall pay to Supplier the reasonable costs of delivering such property to such location. To the extent permitted by law, Supplier waives any lien or other rights that Supplier 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:** Supplier shall permit and obtain from its sub-Suppliers the right for Buyer or its agents to enter Supplier's and sub-Suppliers' premises at reasonable times to determine Supplier's adherence to the terms and conditions of any Order. This provision shall include the right to inspect and test all Products, tooling, and workmanship. However, Buyer's failure to test or inspect will neither relieve Supplier of any liability for defects, nor create any liability on the part of Buyer for failure to inspect.

27. **CONFIDENTIAL AND PROPRIETARY INFORMATION:**

- (A) No knowledge or information disclosed to Buyer by Supplier which in any way relates to the Products 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 Supplier as a result of this buyer/supplier relationship and all technical and other information furnished by Buyer or jointly developed by Buyer and Supplier 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, Supplier shall be the Importer of Record.
- (B) If Buyer is the Importer of Record, Supplier 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 Supplier is the Importer of Record, Supplier agrees that Buyer will not be a party to the importation of such Products, that the transaction(s) represented by the Order will be consummated subsequent to importation, and that Supplier will neither cause nor permit Buyer's name to be shown as "importer of record" on any customs declaration. Upon request and where applicable, Supplier will provide Buyer with U.S. Customs and Border Protection Form 7552 entitled "Certificate for Purposes of Drawback" properly executed and will further provide all commercial invoices in proper form to allow for entry and possible drawback. Supplier will not disclose any information regarding Buyer or the Products contrary to applicable laws and regulations of the U.S.

29. **PRODUCT RECALL:** If any Products are determined by Supplier, 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 Products be reworked or recalled, Supplier or Buyer will promptly communicate relevant facts to each other and shall undertake corrective action, provided that Buyer shall cooperate with and assist Supplier in any necessary filings and corrective action, and provided further that nothing contained in this paragraph shall preclude Buyer from taking such action as may be required of it under any such law or regulation. Where applicable, Supplier shall pay all reasonable expenses associated with determining whether a recall or rework is necessary. Supplier shall perform all necessary repairs or modifications at its sole expense, except to the extent Supplier and Buyer agree to the performance of such repairs by Buyer upon mutually acceptable terms. The parties recognize that it is possible that other Supplier-manufactured Products might contain the same defect or noncompliance condition as Products manufactured for Buyer. Buyer and Supplier agree that any recall involving Products for Buyer shall be treated separately and distinctly from similar recalls of other Products of Supplier; provided that such separate and distinct treatment is lawful and Supplier shall in no event fail to provide at least the same protection to Buyer on such Products as Supplier 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 Products, except where such consultation would prevent timely notification required by law.

30. **REPLACEMENT PARTS:** Supplier shall provide replacement parts to Buyer and its affiliates for a period of seven (7) years after cessation of original production, or any period required by Buyer's customers, whichever is longer. Supplier shall continue to supply such parts after such ten-year period if Buyer or its affiliates order at least one hundred (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 Supplier shall be allowed to discontinue. All other nonproduction parts shall be offered at production prices for two (2) years after obsolescence. Thereafter, prices shall be negotiated based on Supplier's actual cost of production plus any special packaging. Supplier shall notify Buyer or its affiliates and receive written approval before scrapping any tooling used to make replacement parts for Buyer.

31. **INVENTORY LEVELS:** Buyer shall have the right to return unused and unopened Products deemed in Buyer's sole discretion as in excess of Buyer's inventory requirements. Products shall be returned freight collect via a carrier determined by Buyer. Buyer may set off the purchase value of the Products against any amounts owing from Buyer or any of Buyer's affiliates to Supplier.

32. **SET-OFF:** Buyer shall have the right at all times to set off any amounts owing from Supplier to Buyer, or any of Buyer's affiliates, against any amount payable at any time by Buyer.

33. **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.

34. **TESTING:** Testing of any kind of Products by Buyer, whether for performance or reliability, shall not negate, diminish or relieve Supplier's obligation or responsibility under any warranty (express or implied), indemnification, hold harmless or other similar term or provision existing at law, under any Order or these Terms and Conditions.

35. **QUALITY ASSURANCE:** If Supplier supplies Products under ISO9000, QS9000, AS9000, VDA 6.1 or any other quality assurance system specified by Buyer or its customers, Supplier shall comply with such quality system standard for such Products covered by this Order. Supplier agrees to permit Buyer or its customers to review Supplier'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 Supplier 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.

36. **MATERIAL MANUFACTURED BY BUYER:** Supplier shall buy Products and obtain services from Buyer or its affiliates to the extent compatible with Supplier's needs.

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: (A) separate, written contract; (B) an applicable pricing agreement; (C) the Order; (D) these Terms and Conditions; (E) drawings; (F) specifications; and (G) any other documents incorporated by reference.