

1. HEADINGS NOT CONTROLLING

The headings of these Terms and Conditions of Sale are solely for organization and reference and shall not affect their interpretation. Where the Contract requires, items stated in the plural herein shall be deemed to mean the singular and vice versa.

2. DEFINITIONS

- a. **"Buyer"** means the person, firm or company identified on the face of the Contract with whom Seller is Contracting.
- b. **"Conditions"** means the standard terms and conditions making up the Contract and includes any special terms and conditions agreed in writing between Seller and the Buyer.
- c. **"Contract"** means the contract between Seller and the Buyer for the sale of the Products upon the terms and conditions set forth herein and Seller's written acknowledgement of Order.
- d. **"Current Specification"** includes all written statements by Seller including without limitation statements appearing in packaging, operating instructions and technical specifications, and relating to the Products including without limitation their storage, installation, suggested use, operation and maintenance. All such statements are given by Seller in good faith as to their accuracy at the date appearing on this Contract.
- e. **"Products"** means the products (including without limitation (i) any installment of the products or (ii) some or all of the Products and in the case of installment some or all of the Products in that installment) which Seller agrees to supply under the Order.
- f. **"Order"** means any order sent to Seller for the supply of Seller's Products will be accepted entirely at the discretion of Seller and if so accepted will only be accepted upon these Conditions and by means of Seller's Acknowledgement of Order. Each Order which is so accepted shall constitute an individually legally binding Contract between Seller and the Buyer.
- g. **"Seller"** means Senior Operations LLC (SSP).

3. APPLICABILITY/ACCEPTANCE OF TERMS/ENTIRE AGREEMENT

Seller's written acceptance of Buyer's offer to purchase is made only on the express understanding and condition that THESE TERMS AND CONDITIONS SHALL TAKE PRECEDENCE OVER ANY TERMS AND CONDITIONS WHICH APPEAR IN BUYER'S ORDER OR IN ANY DOCUMENTS INCORPORATED BY REFERENCE IN BUYER'S ORDER, regardless of whether the Buyer accepts these Terms and Conditions by a written acknowledgment, by implication, or by retention of or payment for Products ordered hereunder.

a. **Incorporation**

These Terms and Conditions together with Seller's written acknowledgement of order constitute the only terms and conditions on which Seller is prepared to deal with the Buyer and shall govern the Contract overriding any and all conflicting and supplementary terms or conditions referred to or contained in any Order or other documents or correspondence and no addition or alteration or substitution of these Terms and Conditions will bind Seller or form part of any Contract unless they are expressly accepted in writing by a person authorized to sign on Seller's behalf.

Acceptance of conditions referred to or contained in any Order, acceptance of quotation or otherwise brought to the notice of Seller by the Buyer and superseding all and any prior promises, representations, undertakings or implications. No Contract will be concluded before Seller dispatches its written acknowledgement of Order to the Buyer.

b. **Variation**

No variation to these Terms and Conditions or Seller's written acknowledgement of Order, however made (whether by representation, arrangements, understandings, agreements or otherwise) shall be binding on Seller unless such variation is in writing and signed on behalf of Seller by a duly authorized representative.

c. **Orders**

- i. All Orders placed by the Buyer must be numbered, specify the address where the Products are to be delivered ("the place of delivery"), specify the address and contact details to where Seller's invoice is to be sent.
- ii. Orders shall be placed in accordance with Seller's quoted lead time and weekly/monthly capacity. Any request for expedited delivery shall be subject to a nonrefundable expedite fee.

d. **Buyer acknowledges that:**

- i. Senior Operations LLC has posted a copy of the Senior Operations LLC "Code of Conduct" on the world wide web at: <http://www.seniorplc.com/investors/corporate-governance/corporate-governance.aspx>
- ii. Buyer has reviewed a copy of the policy; and agrees to comply with the provisions of the policy.

4. CANCELLATION/TERMINATION

Buyer has no right to cancel this Order, in whole or in part, absent the prior written agreement of Seller. Custom products and end-of-life last time buys are non-cancelable. Cancelable Orders may be canceled by Buyer only upon payment of reasonable cancellation charges, which shall include but not be limited to expenses already incurred for labor and material costs, overhead, commitments made by Seller, and a reasonable profit. In the event of cancellation, Buyer will have no rights in partially completed Products.

If Buyer terminates or cancels an Order without Seller's written agreement, Buyer shall be liable for all unpaid charges and sums due to Seller and will pay to Seller for all damage and will reimburse all costs including reasonable attorney's fees and costs, suffered or incurred by Seller as a result of the breach by the Buyer of its obligations under the Contract, including any incidental, exemplary, indirect, special, or consequential damages. The remedies provided herein shall be in addition to all other means and remedies available to Seller.

Without prejudice to any other right or remedy available to Seller, Seller shall be entitled to terminate this Contract or suspend any further deliveries under it without liability to the Buyer by giving written notice to the Buyer where:

- a. the Buyer fails to pay when due any sum payable under the Contract;
- b. the Buyer fails to observe or perform any of the provisions of the Contract;
- c. the Buyer makes any voluntary arrangement with its creditors or becomes bankrupt or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction);
- d. an encumbrancer takes possession, a receiver is appointed, of any of the property or assets of the Buyer;
- e. the Buyer ceases, or threatens to cease, to carry on business;
- f. Seller reasonably apprehends that any of the events listed in (iii) to (v) above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

5. RESCHEDULES

- a. Buyer may be entitled to reschedule a Product shipment not more than once, and only if Buyer gives at least thirty (30) days written notice of such reschedule, and the rescheduled shipment date is no later than thirty (30) days after the originally scheduled delivery date.
- b. Buyer may request a reschedule for a period longer than thirty (30) days and less than four (4) months, which may be subject to a reschedule fee of 15% of the value of the rescheduled item(s) which shall be reflected in an Order amendment to document Seller's approval of the reschedule.
- c. Pricing quoted is based on time of delivery and not the time that the order was placed. If a reschedule moves a delivery into a new pricing term, then the order shall be updated to reflect the new pricing that will be in effect at the time of scheduled delivery.
- d. For reschedule requests outside of these parameters, please contact Seller's Customer Service Representative.

6. PRICES AND PAYMENTS

After formal credit approval, payment terms are net thirty (30) days from the date of invoice, unless otherwise specified in the Seller quotation. Otherwise, terms are cash in advance. Buyer shall pay interest on amounts not paid when due, at the rate of 1-1/2% per month. Remittances must be made to the address on the invoice. Transportation and installation costs are the sole responsibility of Buyer. Buyer's failure to fulfill its obligations under this section is considered a breach of contract and subject to termination at Seller's sole determination.

7. ASSIGNMENT

Neither party shall assign the Contract or any portion thereof without the advance, written consent of the other party, which consent shall not be unreasonably withheld. The non-assigning party shall not have any obligation to an assignee of the assigning party unless such consent is obtained. Notwithstanding the foregoing, Seller may assign the Contract to any entity controlled by or under common control of Senior PLC.

8. WAIVER

Failure by Seller to assert all or any of its rights upon any breach of the Contract shall not be deemed a waiver of such rights either with respect to such breach or any subsequent breach, nor shall any waiver be implied from the acceptance of any payment or service. No waiver of any right shall extend to or affect any other right Seller may possess, nor shall such waiver extend to any subsequent similar or dissimilar breach.

9. INSPECTION AND ACCEPTANCE

Seller reserves the right to impose fees for any special inspection requirements such as In-Process Inspection, First Article Reports, or Buyer Source Inspection.

All Products shall be deemed finally inspected and accepted within ten (10) days after delivery unless notice of rejection is given in writing to Seller within such period. Acceptance shall constitute acknowledgement of full performance by Seller of all obligations under the Contract except as stated in the Limited Warranty provision herein.

10. LIMITED WARRANTY

Seller warrants that the Products and services delivered to Buyer shall be free from defects in material and workmanship, provided that the Product has not been subjected to accident, abuse, or misuse, and that the Product has been operated in accordance with the Seller's recommendations. Such warranty shall be effective for twelve (12) months after Seller's delivery unless a different term has otherwise been agreed to in writing by Seller. If a Product is determined to be in breach of this warranty, Seller's liability shall be to repair or replace such Product or grant a credit for the purchase price (at Seller's sole discretion and option), which shall be Buyer's sole remedy for such breach of warranty. Buyer shall not take any credits or debits against any payment. The warranty does not cover malfunctions, failures or defects resulting from abuse, misuse, accident, alteration, neglect, improper maintenance, or unauthorized or improper repair or installation.

EXCEPT AS PROVIDED HEREIN SELLER MAKES NO WARRANTIES OF ANY KIND, EXPRESS, STATUTORY, IMPLIED OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WHETHER STATUTORY OR OTHERWISE, AND BUYER WAIVES ALL OTHER WARRANTIES, OBLIGATION OR LIABILITIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION AN IMPLIED WARRANTY OF COMMERCIAL ACCEPTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS WARRANTY MAY NOT BE EXTENDED OR ALTERED EXCEPT BY WRITTEN AUTHORIZATION OF SELLER.

11. CHANGES

- a. Product Changes. Unless otherwise agreed to in writing by Seller, Seller at all times shall have the right, and is entitled in its sole discretion, to make substitutions, changes, additions or improvements to the Products being delivered under an Order without liability or obligation to incorporate such changes, additions or improvements in any Product manufactured, sold or delivered prior to incorporation of the change, addition or improvement. Such right is only provided that they will not adversely affect form, fit or function of the Product.
- b. Order changes. Buyer may at any time, by written notice, without notice to any surety, make changes or additions within the general scope of the Order in any one or more of the following: technical documents, method of shipment or packaging, time and place of inspection, delivery or acceptance and the amount of Buyer/Government furnished material. If such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under the Order, an equitable adjustment shall be made in the price and delivery schedule, or both, and the Order modified accordingly. Any changes to quantities shall be made in accordance with Lead Time and Seller's quoted capacity. Any claim by Seller for such adjustment must be made within thirty (30) days of the receipt of such notice. If Buyer and Seller are unable to agree upon an equitable adjustment in the event of any change directed by Buyer, the matter will be resolved in accordance with the "Dispute Resolution" clause 20 or 21, of these Terms and Conditions.
- c. Work on any Product that is stopped or delayed by Buyer for any reason may be subject to a restart fee determined by Seller. Any Product prototypes delivered by Seller will not be upgraded to one or more finished Products without additional cost to Buyer, unless agreed by Seller, in writing, prior to the start of work. Any Buyer request for changes to scheduled delivery dates will not be accepted by Seller unless approved in writing, and may be subject to expedite or delay fees.
- d. Buyer's requested changes. If Buyer requests changes in specifications or designs relating to any Product, that affects the pricing or delivery schedule, such change shall be subject to equitable adjustment. Lead Time shall not commence until all drawings, specifications, designs have been approved and released by Buyer and Seller.

12. BUYER'S PROPERTY

Any designs, tools, patterns, materials, drawings, information or equipment furnished by Buyer, or any special tools made or acquired for the Buyer by the Seller which become the Buyer's property, shall be used only in the production of goods ordered by Buyer and not otherwise unless by Buyer's written consent; provided that such property may be considered obsolete and destroyed by Seller when for two (2) consecutive years no orders are received from Buyer for products to be made with such property. Seller agrees to exercise reasonable care with respect to such property and equipment while in its possession and control, but shall not be responsible for loss or damage occurring without its fault or negligence or for ordinary wear and tear.

13. TOOLING

Any special tools, jigs, dies, patterns, etc. which Seller makes or acquires for Buyer, notwithstanding any change therefore, shall be and remain Seller's property subject to its possession and control; provided however that at the time of quotation special arrangements may be made for retention of title by Buyer upon payment of the full cost thereof.

In no event shall Buyer have any interest in any tooling belonging to the Seller which is utilized in the production of goods for Buyer, or which has been converted or adapted by Seller for such use, notwithstanding any charge for any such utilization, conversion or adaptation.

14. EXCUSABLE DELAY

Neither party hereto shall be in default or liable for any delay or failure to comply with the Contract if such delay or failure is due to causes beyond its reasonable control, provided that such party in writing, promptly, within fifteen (15) calendar days after discovery of the circumstances. If the excusable delay circumstances extend for six months, either party may, at its option, terminate the Contract under the Cancellation/Termination Clause herein. In the event of any delay caused by such circumstance or event, the date of delivery shall, at the discretion of Seller, be deferred for a period equal to the time of loss by reason of the delay.

15. QUALITY ASSURANCE

Seller maintains a quality program certified to ISO 9001-2000. Unless otherwise specified, all Products are manufactured in accordance with these standard processes, except that third-party Products supplied by Seller are manufactured under the third-party's quality system.

16. RETURN MATERIAL AUTHORIZATION (RMA)

In the event that any Product requires warranty or repair service, a Return Material Authorization (RMA) number, or equivalent repair number, MUST BE OBTAINED FROM Seller BEFORE such can be returned. All returns must be shipped, freight prepaid, to Seller. No unauthorized returns will be accepted by Seller. To obtain an RMA, the following information must be supplied: Product name and part number, serial number, and detailed description of the problem. To request an RMA number, please visit the Senior SSP website on the worldwide web: <http://www.seniorssp.com/rmaform.php>. Following receipt of any request for an RMA, Seller shall inform Buyer of the warranty status of such return. Products returned under a valid warranty claim shall be repaired or replaced at no expense to Buyer, other than costs incurred in returning the same to Seller. With regard to out-of-warranty Products, no repair work shall proceed without receipt of a new Order or written authorization from Buyer related to such repairs. If a preliminary assessment indicates that the costs associated with any such repair will approach or exceed original price of the Product, then repairs may not be undertaken, and Buyer will be notified. All work performed on out-of-warranty Products is warranted for ninety (90) days from the date of return shipment to Buyer, provided that Buyer notifies Seller of any warranty claim related to such repairs within such ninety (90) day period.

Defective Products are returned to Seller's factory at the Buyer's expense if so requested by Seller and this condition shall not apply to Products that have been processed or interfered with other than by Seller or which have not been stored, handled or used in accordance with Seller's instructions. Where the defective Products have been incorporated into or combined with another product of the Buyer, the associated costs of delivery borne by the Buyer referred to above shall not include any costs borne by the Buyer in recalling or replacing the product in which the defective Products have been incorporated.

Where Seller repairs or replaces the defective Products, the Buyer must return the defective Products to Seller within fourteen (14) calendar days' notice. Where the returned Products, upon inspection by Seller, prove not to be defective the Buyer will at Seller's option pay or refund Seller any associated costs of delivery (including returning the defective Products to Seller) and any storage, testing, inspection and other incidental costs incurred by Seller as a result of the Products having been returned.

A fixed price shall be charged to Buyer for all Product evaluations and/or repairs including Product that is deemed Beyond Economical Repair (BER) or No Fault Found (NFF).

In no event shall the Buyer impose debits on Seller for cost of returned Products, costs associated with the removal of the Products, or any other fees whatsoever.

17. TITLE RETENTION AND SECURITY INTEREST

Seller hereby reserves a security interest in Products sold and the proceeds thereof, in the amount of its sales price. Default by the Buyer under the Contract with Seller will result in Seller's right to repossess the Products sold hereunder and without liability to Buyer. These security interests will be satisfied by payment in full. On request of Seller, Buyer will promptly execute financing statements and other instruments which Seller may request to perfect its security interest.

18. INSURANCE

Seller shall maintain and carry liability insurance which includes but is not limited to commercial general liability (including product liability and for services to be performed, completed operations liability) in a sum no less than \$5 million, automobile liability in a sum no less than \$5 million, workmen's compensation in an amount no less than the applicable statutory minimum requirement and employer's liability in an amount of no less than \$1 million, with insurance carriers acceptable to Buyer. Seller will, if requested by Buyer, furnish certificates of insurance on the foregoing coverages.

19. INTELLECTUAL PROPERTY

Seller is and shall remain the sole and exclusive owner of any and all rights in any intellectual property created, designed, or conceived by Seller in connection with or arising out of the work performed by Seller. No work performed by Seller shall be considered a work made for hire. Seller grants Buyer only a limited, nonexclusive, royalty-free license to use the intellectual property embodied in the Product provided, supplied or sold by Seller only as necessary for Buyer to utilize such Product Nothing in any development agreement or otherwise shall be construed as vesting in or transferring to Buyer any ownership of any intellectual property rights.

20. TIME OF DELIVERY AND TITLE

The date of delivery of the Product shall be when the Product is delivered to the carrier by the Seller. The title for any item shall pass to the Buyer upon Seller's delivery of the item to the carrier. The Products shall be at the risk of the Buyer as soon as delivery has taken place and the Buyer shall be responsible for insuring the Products. Seller shall not be liable for any fees or liquidated damages relating to late delivery.

21. LIMITATION OF LIABILITY

SELLERS' maximum liability for any and all claims arising directly or indirectly from the performance of its obligations under any agreement with Buyer, whether resulting from breach of Contract, breach of warranty, tort, products liability, or otherwise, shall not exceed the aggregate purchase price of the particular Products and services which are subject of the claim.

Under no circumstances shall Seller or any affiliate of Seller be liable to Buyer for loss of business or profit or any other economic loss, or any incidental, exemplary, indirect, special or consequential damages even if the Seller has been advised of the possibility of such damages.

Notwithstanding the foregoing or anything in the Contract, nothing in this clause shall limit damages in connection with:

- a. Fraud or willful misconduct;
- b. Claims that Seller's Products infringe patents of any third party.
- c. Damages incurred in third party claims for bodily injury, property damage or death.

22. INTELLECTUAL PROPERTY INDEMNITY

Except insofar as an Order calls for Products pursuant to Buyer's designs, drawings or specifications, Seller agrees to pay the amount of any final judgment against Buyer resulting from a suit claiming that any Products manufactured or furnished hereunder, by reason of their manufacture, sale or use, infringes any United States, Canadian or European patent which has issued at date of the Contract, and Buyer's reasonable costs and expenses in defense of such suit if Seller does not undertake the defense thereof, provided Seller is promptly notified of the threat or commencement of such suit and is offered full and exclusive control to conduct the defense or settlement thereof.

Seller's indemnity shall not apply where infringement would not have occurred from the normal use for which the Products were designed. No responsibility is assumed for actual or alleged infringement of any foreign patent. Seller's liability for damages hereunder is limited to those computed solely on the value of any Products sold to Buyer. In no event shall Seller be liable for consequential damages or costs applicable thereto. In the event of any claim that a Product furnished hereunder infringes any United States, Canadian or European patent, Seller may at its option and expense (a) procure for Buyer the right to continue using the Product, or (b) replace or modify the Product so that it becomes non-infringing, or (c) grant Buyer a credit for such Product, less a reasonable depreciation for use, damage, and obsolescence upon its return to Seller. Buyer agrees to pay all costs and expenses incurred by Seller in its defense and the amount of any judgment against Seller, in any suit or proceeding against Seller based upon a claim of infringement resulting solely from the Buyer combining any Product furnished hereunder with any item not manufactured or furnished by Seller or from the sale or use of any such combination by Buyer. In the event any Product to be furnished under the Contract is to be made in accordance with drawings, samples or manufacturing specifications designated by Buyer and is not the design of Seller, Buyer agrees to defend, indemnify and hold Seller harmless to the same extent and subject to the same requirements as set forth in Seller's obligation to Buyer as above. Seller shall not be obligated to defend or be liable for costs and damages from a modification of Product after delivery by Seller, or from other fault or action of Buyer. Seller may decline to make further shipments to Buyer hereunder if infringement has occurred for such reasons.

THE RIGHTS AND OBLIGATIONS ABOVE ARE IN LIEU OF ANY OTHER INDEMNITY OR WARRANTY, EXPRESS OR IMPLIED BY SELLER OR BUYER, WITH RESPECT TO INTELLECTUAL PROPERTY (PATENTS, TRADE SECRET, MASK WORKS, TRADEMARKS, COPYRIGHTS, OR THE LIKE)

23. TAXES

The prices quoted herein do not include sums necessary to cover any taxes or duties including but not limited to Federal, State, Municipal excise, sales or use taxes or import duties upon the production, sales, distribution, or delivery of Products or furnishing of services hereunder. Any taxes or duties that are due and owing hereunder shall be paid by the Buyer. This clause shall survive the acceptance and complete performance of the Order by the parties herein.

24. UNITED STATES GOVERNMENT CONTRACT

If the purchase is identified as made for use under a United States Government contract, only those applicable terms and conditions which are required to be included by the Federal Acquisition Regulation and the Department of Defense Supplement (FAR/DFAR), or by Executive Order of the United States Government and such other clauses as may be agreed to between the parties shall be incorporated herein by reference.

25. SEVERABILITY

If any provision of these Terms and Conditions of Sale is determined to be illegal, invalid, or unenforceable, for any reason, then such provision shall be deemed stricken for purpose of the dispute in question, and all other provisions shall remain in full force and effect.

26. INSOLVENCY/BANKRUPTCY/FINANCIAL DEFAULT

If the Buyer fails to pay any sum due to Seller hereunder, or shall fail to satisfy any of its obligations hereunder and such default shall continue for ten (10) days after the sending by Seller to the Buyer by a registered letter advising of such default, or if the Buyer by the subject of any proceedings under bankruptcy laws or other insolvency laws or be declared subject to judicial supervision or enter into liquidation, Seller shall have the right to immediately repossess the Product and to terminate the Contract. Upon any such termination, the Buyer shall remain liable for all unpaid charges and sums due to Seller and will pay to Seller for all damages and will reimburse all costs including reasonable attorney's fees and costs, suffered or incurred by Seller as a result of the breach by the Buyer of its obligations under the Contract. The remedies provided herein shall be in addition to all other means and remedies available to Seller.

27. SETOFF

All amounts that Buyer owes Seller under an Order shall be due and payable according to the terms of such Order. Buyer is prohibited from and shall not set off such amounts or any portion thereof, whether or not liquidated, against sums which Buyer asserts are due it, its parent affiliates, subsidiaries or other divisions or unites under other transactions with Seller, its parents, affiliates, subsidiaries or other divisions or units.

28. INDEMNITY

Buyer will indemnify, hold harmless and defend Seller from and against any claims, suits, judgments, expenses or liabilities of any nature (including without limitation all reasonable attorneys' fees) which are threatened or brought against, or are incurred by, Seller arising from any actions, omissions or misrepresentations of Buyer in the use, promotion, or sale of Products or services provided by Seller under the Contract.

29. DISPUTE RESOLUTION (FOR CONTRACTS WITH NON-U.S. ENTITIES)

If either party to the Contract is a non-U.S. entity, any dispute, controversy or claim arising out of or relating to the Contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the International Chamber of Commerce ("ICC") Rules of Arbitration as in force at the commencement of the arbitration. If the dispute involves \$5 million or less, the arbitration shall be conducted by a sole arbitrator. Either party to the Contract may propose to the other the names of one or more persons, one of whom would serve as the sole arbitrator. If within 30 days after receipt by a party of a proposal made in accordance with this paragraph the parties have not reached agreement on the choice of an arbitrator, the sole arbitrator shall be appointed by the ICC in Accordance with its Rules.

If the dispute involves more than \$5 million, the arbitration shall be conducted by a tribunal of three arbitrators, one arbitrator to be named by Seller, one arbitrator to be named by Buyer, and the third arbitrator (who shall serve as the chairperson of the tribunal) to be appointed by the two party-appointed arbitrators. If the two party-appointed arbitrators fail to appoint a third within 15 days of the appointment of the second of the two party-appointed arbitrators, then either party may request that the chairperson be appointed by the ICC in accordance with its Rules of Arbitration. The place of arbitration shall be Geneva, Switzerland. Any arbitral tribunal constituted pursuant to the Contract shall apply the law of England to all disputes. The arbitration shall be conducted in English. The award of the arbitrator shall be final and binding upon the parties and may be entered and/or enforced in any court of competent jurisdiction. The parties acknowledge that the Contract and any award rendered pursuant to it shall be governed by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Notwithstanding the foregoing, Seller may initiate suit in any jurisdiction for protection and enforcement of its intellectual property rights.

30. DISPUTE RESOLUTION (FOR CONTRACTS WITH U.S. ENTITIES)

If both parties to the Contract are U.S. entities, any controversy or claim arising out of or relating to the Contract or its breach shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The parties may agree on the selection of a single arbitrator, but if they cannot so agree, each such party shall select an arbitrator and the two selected arbitrators shall select a third arbitrator. No arbitrator may be affiliated, whether directly or indirectly, with any of the parties, including, without limitation, as an employee, consultant, partner or shareholder. The arbitrator(s) shall permit each of the parties to the Arbitration to engage in a reasonable amount of discovery. In the event either party requests arbitration, the arbitration shall be held in Chicago, Illinois.

The award by the arbitrator or arbitrators shall be final, and judgment upon the award rendered may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, Seller may initiate suit in any jurisdiction for protection and enforcement of its intellectual property rights.

31. APPLICABLE LAW

The Contract shall be interpreted in accordance with the laws of the State of New York, exclusive of any choice of law provisions. The Seller and Buyer expressly agree to exclude from the Contract the United Nations Convention on Contracts for the International Sale of Products, 1980, and any successor thereto.

32. COST OF COLLECTION AND ATTORNEYS FEES

In the event any action is taken by Seller to collect amounts billed to Buyer by Seller, Buyer shall be liable for all costs and expenses incurred by Seller in relation thereto, including legal fees.

33. DOCUMENTATION AND MANUALS

All documentation, installation, maintenance, and operations manuals will be in English and in Seller format. Seller retains all rights in and to the documentation and manuals. Copying or translating the documentation or manuals, in whole or in part, into another written or electronic format or language is prohibited unless specifically authorized by Seller in writing. Should such copying be authorized, Buyer will reproduce and include all Seller proprietary and copyright notices and other legends in the same manner that Seller provides such notices and legends. Any translation requirements are Buyer's responsibility.

34. DISCONTINUED OR OBSOLETE COMPONENTS

Seller performs sustaining engineering for the benefit of all Buyers. This includes non-contract-specific activities to support improved design and manufacturing, and to replace discontinued and obsolete components. Seller monitors the general marketplace, tries to capture relevant design and availability issues, and then recommends actions to the Buyer. In the event that any component part to complete the future manufacture or future delivery of a Product addressed herein, becomes obsolete or discontinued, Seller shall notify the Buyer and make recommendations on corrective action. Buyer shall determine the proper course of action, fund the necessary changes, and adjust contractual documents and delivery schedules, as appropriate. Other specific actions may be taken if Buyer has contracted for Services.

35. EXPORT CONTROL

Each Party will comply with all export and import regulations, controls, sanctions, laws, and orders, as they may be amended from time to time

("Export Controls"), applicable to the export and re-export of Products, software, technology, or technical data ("Items") or services, of all countries involved in transactions associated with this agreement. Such Export Controls include, but not be limited to, the United States Department of Commerce's Export Administration Regulations ("EAR") and, to the extent applicable, the United States Department of State's International Traffic in Arms Regulations ("ITAR"), regulations and orders administered by the Treasury Department's Office of Foreign Assets Control, the UK Export Control Act administered by the UK Department of Trade and Industry under its Export Control Organization and the Export and Imports Permit Act administered by the Canada Export and Import Controls Bureau.

The Seller shall notify Buyer of any Products that are controlled by the ITAR. If any Products are controlled by the EAR, Seller shall provide Buyer with the applicable Export Control Classification Number ("ECCN"), as well as the ECCNs of any components or parts thereof, if requested. To the extent that such Products or components were specifically designed, developed, configured, adapted or modified for a military application and are controlled under the EAR, Seller shall notify the Buyer of this fact and shall provide the Buyer with written confirmation from the United States Department of State that such Items are not subject to the jurisdiction of the ITAR.

Seller shall be responsible for obtaining all relevant official approvals, licenses and required authorizations for any export conducted by the Seller. Any party conducting any re-export shall be responsible for obtaining any relevant official approvals, licenses, and required authorizations. Each Party shall reasonably cooperate and exercise reasonable efforts to support the other Party in obtaining any necessary licenses or authorizations required to perform its obligations under the Contract.

Seller covenants and agrees at all times to protect, defend, hold harmless and indemnify Buyer, its parent and affiliated companies and their respective directors, officers, employees, successors and assigns from and against any and all claims of loss, damage or injury from and against any suits, actions, or legal proceedings of any kind brought against Buyer due to Seller's non-compliance with the laws of any country. Furthermore, Seller shall, at its own cost and expense, pay all charges of attorneys, and all costs and expenses arising from or related to any of the aforesaid suits, actions or claims, or from any other claim for indemnity made by Buyer against Seller under the Order, including all charges of attorneys costs and expenses incurred by Buyer in connection with the enforcement of this clause against Seller in any suit, action or claim.

36. PURCHASE OF THIRD-PARTY COMPONENTS, PARTS AND PRODUCTS

Buyer shall be responsible, in Seller's sole discretion and upon notification to Buyer, for advance payment for all third party components, parts or products specified for inclusion in any Product ordered by Buyer. Such components, part, or products include, but are not limited to, software packages, processing cards/ chips, circuit board products, media drives, and removable storage devices. Buyer may also elect to purchase such items directly from the third-party source and provide them to Seller. In no event shall Seller be liable for any technical support, damages, warranty claims, product failures, system failures or deficiencies related to or caused by any such third-party components, parts or products. Buyer shall be responsible for all excess and non-cancellable and non-returnable ("NCNR") material procured for Buyers order(s). In the event a follow-on order is not awarded within 45 days of final shipment, Seller will invoice Buyer for all excess and NCNR material. Stranded material caused by a Buyer change order will be invoiced upon implementation of the change order.