

## **Indal Technologies Inc.** **PURCHASE ORDER TERMS AND CONDITIONS**

### **1. Definitions:**

**"Affiliate"** means, in respect of a Person, another Person who controls or is controlled by the first Person, or is controlled by the same Person that controls the first Person. A Person shall be deemed to control another Person where the first Person has any direct or indirect influence that, if exercised, would give the first Person the power to manage the affairs of the second Person, including (but without limiting the generality of the foregoing) ownership of more than half of the capital or business assets or the right to exercise more than half of the voting rights or the power to appoint more than half of the members of the board of directors or supervisory board of the second Person.

**"Buyer"** means Indal Technologies Inc. as identified on the Purchase Order, or any of its assignees or successors, acting through its purchasing organization.

**"Buyer Furnished Property"** means components, devices, dies, equipment, Goods, Items, jigs, materials, parts, patterns, tooling, tools or other property, which is supplied to Seller by Buyer, including from Buyer's Customer and Government property under Buyer's control, identified as a reimbursable Item in the Purchase Order, or specifically acquired by Seller for performance of this Purchase Order with the cost being fully amortized or otherwise recovered in the price of the Products to be delivered hereunder.

**"Counterfeit and/or Suspect Work"** means Items that may be (a) mislabeled as to source or quality, (b) falsely labeled as new, (c) fraudulently stamped or identified as having been produced to high or approved standards, (d) an unauthorized copy of a known product within the industry, or (e) materially misrepresented in some way by the supplier.

**"Documentation"** means all information, algorithms, code, data, designs, documentation, drawings, specifications, evaluations, firmware, forms, formulae, know-how, ideas, improvements, innovations, inventions, whether patentable or not, manuals, operations, plans, photographs, procedures, processes, records, reports, research, reviews, samples, schedules, sketches, Software, specifications, studies, works of authorship and all other documentation and deliverables, which are stated in the Purchase Order to be supplied by Seller to Buyer.

**"Export Control Laws"** means, including but not limited to, Canada's Export and Import Permits Act, Canada's Defence Production Act, Canada's Controlled Goods Regulations, Canada's Technical Data Control Regulations, and any applicable extraterritorial export controls imposed by the United States: 22 U.S.C. 2751-2796 (Arms Export Control Act), 22 C.F.R. 120-130 (International Traffic in Arms Regulations), 50 U.S.C. 2401-2420 (Export Administration Act), 15 C.F.R. 768-799 (Export Administration Regulations), 10 C.F.R. 810 (U.S. Department of Energy Regulations), 10 C.F.R. 110 (U.S. Nuclear Regulatory Commission Regulations) and the export control laws and regulations of the Sellers governmental authority, and their successor and supplemental laws and regulations. Export Control Laws also include sanctions imposed by the United Nations Act, the Canadian Special Economic Measures Act, and the U.S. Office of Foreign Assets Control (OFAC).

**"Goods"** means those goods identified in the Purchase Order, which may be changed by mutual written agreement.

**"Items"** means articles, components, devices, equipment, Goods, materials or parts.

**"Person"** means individual, partnership, limited partnership, sole proprietorship, company or corporation with or without share capital, public or private association, public utility, legal personal representative, regulatory or governmental agency or body, or other legal entity however designated or constituted.

**"Price"** established by the Purchase Order or Subcontract are Firm Fixed Prices unless otherwise stated in the Buyers Purchase Order or Subcontract. Seller warrants that any unit prices charged do not exceed the unit prices charged by Seller to other customers in substantially similar transactions.

**"Products"** means all articles, components, devices, dies, equipment, Goods, Items, jigs, materials, parts, patterns, tooling, tools or other Goods, which are stated in the Purchase Order to be supplied by Seller to Buyer.

**"Proprietary Information"** means confidential, non-public or other proprietary information including, without limitation, the Terms, trade secrets, technical information, including algorithms, code, data, designs, documentation, drawings, evaluations, firmware, forms, formulae, hardware, know-how, ideas, improvements, innovations, inventions, whether patentable or not, manuals, operations, plans, photographs, procedures, processes, products, records, reports, research, reviews, samples, schedules, sketches, Software, specifications, studies, financial information, including pricing and other proprietary information that is disclosed under these Terms by the disclosing party to the receiving party or is otherwise learned by the receiving party by observing the disclosing party's facilities. Proprietary Information does not include information which: (a) is or becomes a part of the public domain without any action by, or involvement of the receiving party; (b) is received by receiving party from a third party without a duty of confidentiality owed to the disclosing party; (c) has been independently developed by the receiving party without use of or without reference to the disclosing party's Proprietary Information; (d) is already in the possession of the receiving party, and the receiving party can demonstrate with written evidence that the information was in the possession of the receiving party, without restriction, prior to the disclosure of the disclosing party's Proprietary Information by the disclosing party, as demonstrated by the receiving party through written evidence; or (e) is disclosed by the receiving party with the prior written approval of the disclosing party.

**"Purchase Order"** means a Purchase Order furnished by Buyer to Seller by mail, electronically, facsimile or by such other means as the parties hereto may establish, including any specifications, and other drawings and documents that are expressly incorporated into it, and incorporating these Terms.

**"Seller"** means the supplier identified as the Seller or an affiliated company and their subsidiaries, successors and assigns.

**"Services"** are non-physical, intangible activities or tasks which are stated in the Purchase Order to be performed by Seller for Buyer, which may be changed by mutual written agreement.

**"Software"** means: (a) Machine readable program code that is expressed in a form, which is not generally suitable for modification by humans (object code) without reverse engineering, which could comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and (b) any other form of program code deliverable specified in the Purchase Order.

**"Subcontract"** shall mean the Purchase Order, Subcontract, Contract, and any Special Conditions appended hereto or documents incorporated herein.

**"Terms"** means the terms and conditions of purchase set out in this document, the Purchase Order and any additional terms incorporated therein including, without limitation, U.S. or other Government flow down clauses, quality assurance documents, specifications, Statement of Work, technical requirements and any written change notices ("Change Notices").

**"Time is of the Essence"** means the specified time and dates in this Purchase Order are vital and thus, mandatory, and therefore, any delay, reasonable or not, slight or not, may be grounds for cancelling this Purchase Order.

**"Work"** means all work including Products, Services and/or Documentation, which are stated in the Purchase Order and Statement of Work if applicable to be supplied by Seller to Buyer.

### **2. Order of Precedence:** In the event of any conflict among the procurement documents referenced in the Purchase Order, the following order of precedence shall apply in interpreting this Purchase Order:

1. Change Notices of the Purchase Order
2. Purchase Order and any terms in the main body of same
3. Special Terms and Conditions or Subcontract, including Government Flow Downs
4. These Terms and Conditions
5. Additional Administrative, Quality and Technical Requirements, including the Statement of Work
6. Buyer Documents
7. Seller Documents
8. Other Agreements (e.g. Supply Agreements)

In the event of a contradiction between the terms appearing in these different documents, each document shall take precedence over the following one, in the order in which they are listed above. In the event of a contradiction between certain terms in the documents, the term provided in the higher-level document will control and prevail over the contradictory term in the lower-level document and the contradictory term, or the applicable portion thereof in the lower-level document shall be null and void. In the event of there being no contradictions between certain terms in the documents, the non-contradictory terms of the lower-level document shall supplement the non-contradictory terms of the higher-level document.

Seller shall immediately bring any inconsistencies to the attention of Buyer in writing, and any inconsistencies in or among any of the foregoing shall not be the basis for any defense of a breach of contract claim brought by Buyer against Seller for Seller's failure to perform under the Purchase Order, nor shall any such inconsistencies be the basis for any claim of any kind by Seller against Buyer unless Seller has first timely brought such inconsistencies to Buyer's attention and Buyer has failed to resolve such inconsistencies. Should Seller fail to contact Buyer to resolve any such conflicts or inconsistencies, Seller will be solely responsible for any errors resulting from any conflicts or inconsistencies occurring in the Purchase Order. Where documents are referenced, the issue date in effect at the time of Purchase Order or Change Notice placement shall be applicable, unless another issue date is specified in the Purchase Order or Change Notice or other referenced document.

### **3. Acceptance:** This Purchase Order is an offer to buy expressly limited to Seller's acceptance of the specifications, and other drawings and documents that are expressly incorporated into it, and incorporating these Terms. A written acknowledgment of this Purchase Order shall operate as acceptance of this offer upon the Terms herein even though the acknowledgment states terms and conditions which are additional to or different from those stated herein. Any terms proposed in Seller's acceptance of Buyer's offer which add to, vary from or conflict with the Purchase Order are hereby objected to. Any such proposed terms shall be void and the Purchase Order along with these Terms shall constitute the complete and exclusive statement of the terms of the contract between the parties. If Seller fails to issue an acknowledgment of the Purchase Order, the Purchase Order shall be deemed to be accepted upon the earlier to occur of Seller's commencement of any work in relation to the Purchase Order, supply of any Products, or issue of any invoice. Any reference herein to any proposal, quotation or other communication by Seller shall, unless indicated to the contrary herein, be deemed to be limited to the description of Seller's Goods or services and not include Seller's proposed terms. No modification, or deletion of or addition to these Terms shall be binding on either party unless made in writing and signed by a duly authorized representative of both parties.

### **4. Advertising:** Any advertising or publicity of this Order (including the Work hereunder and pictures, descriptions or samples thereof) by Seller is prohibited except with Buyer's advance written approval.

5. **Authority and Communication:** Only Buyer's purchasing department is authorized to issue Purchase orders and/or amend such Purchase orders. No other department of the Buyer entity is so authorized to act. Claims by Seller for any adjustments will not be allowed unless duly authorized in writing by Buyer prior to implementation. All written communications are to be directed to Buyer's purchasing representative. Communications from, to or among engineering or quality assurance personnel on technical or quality matters is permitted; however, any agreements resulting from communications with organizations of Buyer other than its purchasing organization shall not be binding unless documented by Buyer's purchasing representative in a written change notice.
6. **Inspection, Access, Oversight and Audit:** With sufficient notice, and at all reasonable times, which includes the period of manufacture, all Products, Services and Work (including Work performed by Seller's subcontractors and suppliers) shall be subject to inspections, oversight and tests as Buyer may direct and may be performed by Buyer, Buyer's customers, a Government Official (as applicable), or representatives thereof. Buyer shall provide Seller with the necessary visitor details required by Seller for compliance with Seller's visitor policy, if any. Provided that Seller's safety and security procedures are followed at all times, Seller shall provide Buyer, Buyer's customers, the Government Official (as applicable), or their representatives with access to plant, facilities and records of Seller and its subcontractors and suppliers for inspection, oversight, tests and/or audit. If inspections and tests are made on Seller's (or Seller's subcontractors or supplier's) premises, Seller shall furnish, at no additional charge, facilities and assistance for safe and convenient inspections and tests. Buyer may charge Seller for additional costs to Buyer when Products, Services and/or Work are not ready for scheduled inspections and tests. Buyer may inspect 100% or a sample of all Products or any lot of Products at Buyer's option. In case any Products, Services and/or Work are defective or otherwise not in conformity with the Purchase Order requirements, Buyer may, in its sole discretion and without waiving any other remedies that may be provided in these Terms or at law: (a) reject and return the supplies, material and/or Documentation at Seller's expense and risk for refund of invoice price or for correction or replacement; (b) rework same to conform them to Purchase Order requirements and charge Seller the cost occasioned thereby; (c) if rework is impractical and Seller fails to make prompt replacements, Buyer may make such replacements and charge Seller for the cost occasioned thereby; (d) require that Seller re-perform non-conforming Services; (e) equitably adjust the price; or (f) terminate this Purchase Order in whole or in part for default. All handling, storage, freight (both ways) and demurrage charges shall be at the cost of Seller. Payment for Products, Services and/or Work rejected hereunder shall be reimbursed by Seller within (7) days of written request.
- Seller and Seller's suppliers / subcontractors shall not make any changes in the manufacture of Products to be delivered pursuant to Purchase Orders issued hereunder in manufacturing processes, materials, accessories, design, which may affect form, fit or function or in any other way without prior written notification to Buyer and Buyer's advance written acceptance of such proposed change. Buyer reserves the right to terminate this Purchase Order for default if any changes are made by Seller and Seller's suppliers / subcontractors without obtaining the Buyer's advance written approval. Except as otherwise agreed in writing, all shipments and supplies furnished under this Purchase Order shall be subject to final inspection and acceptance by Buyer at Buyer's facility or other location notwithstanding any previous inspection, or the earlier passing of title to Buyer or any prior payment by Buyer, or any prior inspection of any type. In case any Work is defective or otherwise not in conformity with the Purchase Order requirements, Buyer may, in its sole discretion and without waiving any other remedies that may be provided in the Purchase Order or at law exercise its rights as is provided in the Purchase Order and these Terms. Seller must notify Buyer of any non-conforming Products prior to shipment to Buyer. Non-conforming product shall not be shipped from the Seller's facility until authorized by Buyer, by formal change notice to the Purchase Order. Seller must notify Buyer of any non-conforming Products if determined during or after shipment.
- The inspection, approval, review or failure to inspect shall not relieve Seller from any of its obligations under the Purchase Order or constitute a waiver of any defects or nonconformities. The acceptance by Buyer of any Work under any Purchase Order will not limit or affect any warranty or right of indemnity granted by Seller under the Purchase Order, these Terms or otherwise.
- Seller shall maintain a quality control and inspection system acceptable to Buyer and its customer consistent with current industry standards, such as ISO9001. During performance of this Purchase Order, Seller's quality control or inspection system and manufacturing processes are subject to review, verification and analysis by Buyer, its customer, the prime contractor and the applicable regulatory authorities. Seller shall maintain quality records associated with this Purchase Order for a minimum period of ten (10) years unless the Purchase Order indicates a longer retention period. Buyer may also request periodic phone conferences, status report submittals, or other reasonable and mutually agreeable oversight activities.
7. **Delivery:** Delivery of the Work in accordance with the established schedule stated in the Purchase Order is a material requirement of this Purchase Order. TIME IS OF THE ESSENCE. Seller shall furnish all resources necessary to assure compliance with the established delivery dates and/or performance dates. No acts of Buyer, including without limitation, modifications to this Purchase Order or acceptance of late deliveries, shall constitute a waiver of this provision. Seller shall also provide free of charge all documentation reasonably required by Buyer to use, operate and maintain the Products and/or Services. Unless otherwise specified in the Purchase Order, all Documentation, installation, maintenance and operations manuals will be in English. Any translation requirements are Seller's responsibility.
- All deliveries shall strictly adhere to the applicable quantities and schedules set forth in this Purchase Order. Unless otherwise specified in this Purchase Order, Seller shall not ship quantities less than or greater than those specified in this Purchase Order. Buyer shall have no obligation to return or pay for any quantities in excess of those specified in this Purchase Order. Buyer reserves the right to reject and/or return, at Seller's expense and risk, including transportation both ways, all or any part of a delivery that varies from the quality or quantity authorized by the Buyer for shipment. Buyer additionally reserves the right to accept such Products with the obligation for payment deferred until the agreed upon payment period after delivery should have been made pursuant to the delivery schedule. Except as may be specified in the Purchase Order, all Documentation, installation, maintenance and operations manuals will be in English. Any translation requirements are Seller's responsibility.
- The Seller will provide the Products per the applicable delivery term identified on the Purchase Order. In the event a delivery term is not specified on the Purchase Order, the delivery will be made by Seller DAP Buyer Facility as defined by Incoterms.
- Upon request, Seller will provide Buyer with all up-to-date information relating to the progress in completing the Purchase Order in a form and frequency acceptable to Buyer. Seller will, at its expense, deliver by express or air shipment or by the most expeditious way to the delivery location if the delivery schedule is endangered in whole or in part for any reason. In the event that Seller fails to do so, Buyer may undertake the transportation of such items at Seller's cost and expense.
- Seller shall not, without Buyer's prior written consent, manufacture or procure materials in advance of Seller's reasonable flow time or deliver in advance of schedule. Seller shall give notice of shipment to the Buyer at the time of delivery of any shipment of Products to a carrier for transportation. Seller shall co-operate with the Buyer to minimize the duties payable on shipments, including routing to protect the lowest tariff rate.
- When requested by Buyer, Seller will develop and maintain in a form acceptable to Buyer, a comprehensive activity/task-based, status recording, schedule ("the Schedule"). At its election, Buyer may provide, at no cost to Seller, assistance in the development of the Schedule. The Schedule will contain a comprehensive activity-based listing for all major Products, Services and/or Work deliverables required by the Purchase Order and shall also include information on any processes being performed outside the Seller's facility (outside processing). Seller shall update the Schedule at regular intervals but no less than monthly to ensure its accuracy. Seller will make its Schedule available to Buyer in a format specified by Buyer for review at reasonable times and places.
- Seller shall be responsible for packaging, loading and tying down of each shipment in accordance with the specifications and requirements of the statement of work or Purchase Order in the absence thereof, in a manner to ensure safe delivery of the Items.
- Whenever it appears Seller will not meet the delivery schedule, Seller shall immediately notify Buyer in writing of the reason and estimated length of the delay. This notice shall be informational only and shall in no way affect the rights or remedies available to Buyer. Seller shall make every effort to avoid or minimize the delay to the maximum extent possible. Any additional cost incurred by Buyer or Seller because of late delivery shall be borne by Seller unless specifically authorized in writing by Buyer. If Seller is unable to meet the required delivery schedules for any reason, Buyer shall have the option to: (a) terminate this Purchase Order, or (b) fill this Purchase Order or any portion thereof, from sources other than Seller and to reduce Seller's Purchase Order quantities accordingly at no increase in unit price, without any penalty to Buyer. The rights accorded Buyer pursuant to this paragraph shall not limit Buyer's rights under the "Termination" provision of this Purchase Order.
8. **Ownership:** All Documentation created in or resulting from Seller's performance under this Purchase Order, or delivered to Buyer by Seller, including all patent rights, copyrights, rights in proprietary information and other intellectual property rights shall be exclusively owned by and be the property of Buyer and shall not be used by Seller for any purpose other than the performance of work under this Purchase Order. Buyer may use such Documentation for any purpose, whatsoever, irrespective of any statement to the contrary appearing on such Documentation. Seller agrees to transfer and does hereby transfer to Buyer all right, title and interest in and to all intellectual property rights associated with such Documentation.
- Seller will, at its expense, execute or obtain the execution of any papers as may be necessary to perfect ownership of the Documentation to Buyer or as may be necessary in obtaining, maintaining or enforcing any intellectual property rights by Buyer. Seller also agrees that any intellectual property which is protectable by copyright will be considered a work made for hire for Buyer. Seller shall, at its expense, obtain any and all licenses and rights necessary to afford Buyer the foregoing rights. Seller agrees that it shall not produce for or quote prices to any other party Goods or materials, which are manufactured according to Buyer's proprietary specifications and are not a part of the Seller's standard product offering.
- Title to materials or Goods furnished or to be furnished by Seller (or information generated or developed) under the Purchase Order shall be deemed transferred to Buyer or Buyer's customer as payments are made. In the event payments are made by Buyer prior to delivery, Seller shall execute and deliver such security agreements, financing statements and other documents as may be deemed necessary by Buyer to protect its rights therein. If title is not transferred in accordance with the foregoing, title shall pass to Buyer or Buyer's customer in accordance with the delivery terms designated in the Purchase Order.
- Seller agrees that the Products delivered to Buyer under the Purchase Order will be free and clear of all liens, claims and encumbrances at the time of delivery. The obligations of this paragraph shall survive termination or completion of the Purchase Order.
9. **Risk of Loss:** Seller shall have risk of loss of the Items furnished under this Purchase Order until arrival at the destination designated in this Purchase Order, unless otherwise specified.
10. **Changes:** Buyer may, at any time, by a written Change Notice, without notice to any sureties, make changes to any aspect of the Purchase Order and/or its performance, including, without limitation: (a) Drawings, designs or specifications; (b) method of shipment or packing; (c) place or time of inspection, delivery or acceptance; (d) the quantity and/or type of Goods and/or Services ordered; (e) the Work or Service schedules; (f) the amount of any Buyer-furnished property; and (g) suspending the Work in whole or in part for a stated time period. Upon receipt of a suspension order, Seller shall immediately take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Purchase Order during the period of Work stoppage. If Seller considers that the conduct, statement or direction of any of Buyer's employees constitutes a change hereunder, Seller shall notify Buyer's purchasing department and take no action on the perceived change pending written approval of Buyer's purchasing department. For example, Buyer's engineering, technical and other personnel may, on occasion, render assistance, exchange information or provide advice to Seller's personnel concerning the Goods or Services furnished hereunder. Such assistance, exchange, or advice shall not constitute a change under this section or a waiver of the Seller's existing obligations. In order to be valid and binding upon Buyer, any change, waiver, or amendment of the Purchase Order must be in writing and approved by an authorized representative of the Buyer's purchasing department. Only Buyer's purchasing department has the authority to approve a change, which approval shall be effective only if reduced to writing. Any change made by Seller without such written approval shall be deemed voluntary by Seller and not compensable in the cost of or time required for performance. Upon receipt of a Change Notice issued by Buyer, Seller shall implement same and proceed diligently with its execution. If the change materially affects Seller's cost or time for performance, Seller shall, upon receipt of a Change Notice, promptly advise Buyer of any effect thereof on the provisions of this Purchase Order, the performance of the Work, including cost and/or schedule. If any such Change Notice causes an increase or decrease in the cost of or time required for performance of this Purchase Order, whether or not changed by the Change Notice, Seller shall promptly prepare and submit to Buyer an estimate of the increase or decrease in the applicable fees and/or time for performance necessitated by such Change Notice. No claim by Seller for adjustment hereunder shall be allowed unless made in writing for a specified amount within twenty (20) days from the date notice of any such Change Notice is received by Seller and any claim may only include reasonable costs and schedule impact that will necessarily be incurred as a direct result of the Change Notice. Buyer shall make an equitable adjustment in writing to the Purchase Order price and/or delivery schedule if the change materially affects Seller's cost or time for performance. The failure to agree on an equitable adjustment shall be considered a dispute in accordance with the Article 27. Choice of Law and Dispute Resolution herein, and shall not excuse Seller from proceeding with performance of the Purchase Order as changed by a Change Notice. Seller shall notify Buyer in writing in advance on each occasion of any and all proposed changes to: (a) The Products and/or Services, including without limitation their specifications, components and/or composition; (b) the manufacturing process; (c) plant, equipment and/or tooling changes or moves; (d) the location of any work performed hereunder; and/or (e) suppliers and/or subcontractors. Such a proposed Seller change shall not occur until Buyer has had the opportunity, at Seller's cost, to conduct such audits, surveys and/or testing necessary to determine the impact of such a proposed change on the Products and/or Services and Buyer has approved the proposed change in a Change Notice or in writing. Seller shall be responsible for obtaining, completing and submitting proper documentation regarding any and all changes, including complying with any written change procedures issued by Buyer. No claim by Seller for an adjustment to the schedule and/or price shall be allowed as a result of Seller's compliance with this section. In addition, Buyer's approval or disapproval of any requested change made by Seller shall not be the basis for an equitable adjustment under this Article.
- NOTWITHSTANDING THE ABOVE OR ANY OTHER REQUIREMENTS OF THE PURCHASE ORDER, THE SELLER HEREBY AGREES THAT NO CHANGES TO THE PRODUCT AND/OR SERVICES THAT MAY BE REQUIRED IN ORDER TO MEET THE SPECIFIED PERFORMANCE REQUIREMENTS OF THE PURCHASE ORDER SHALL ENTITLE THE SELLER TO ANY ADJUSTMENT IN EITHER PRICE OR TIME FOR PERFORMANCE.**
11. **Assignment:** Seller may not assign the Purchase Order or any interest herein (including without limitation payment) without the Buyer's prior written consent. Seller shall promptly notify Buyer of any change in its status including but not limited to: bankruptcy, insolvency, change of ownership or control, strike or Work stoppage. Seller shall ensure that any permitted assignee shall be bound by the Terms of this Purchase Order.
12. **Intellectual Property Indemnity and Remedies:** Seller shall, at its own expense, indemnify, defend and hold Buyer and/or its customers harmless from all costs, damages, expenses, fees, liabilities and losses which may be incurred based on any action, allegation, claim, proceeding or suit that any Product, Services or Documentation furnished hereunder or any part thereof constitutes an infringement or misappropriation of any claim of any patent, copyright, trade secret or other intellectual property right, except for Work manufactured by Seller pursuant to designs solely developed by Buyer and furnished to Seller by Buyer. Seller shall, at its own expense, settle or defend all actions, claims, proceedings or suits against Buyer in which any such infringement or misappropriation is alleged, and if any judgment shall be rendered against Buyer in any such action, claim, proceeding or suit, Seller shall, at its own cost and expense, satisfy and discharge same. Notwithstanding the foregoing, any settlement of such an action, claim, proceeding or suit shall be subject to Buyer's written consent, which consent shall not be unreasonably withheld or delayed. If the Product, Services or Documentation furnished hereunder or any part thereof is held in any action, claim, proceeding or suit to constitute an infringement or misappropriation or its use enjoined, Seller shall at its expense, in a timely manner: (a)

procure for the Buyer and its customers the right to continue using the Product, Services and/or Documentation or part thereof, or (b) replace it with a substantially equivalent non-infringing Product, Services and/or Documentation, or (c) modify it so it becomes non-infringing, but is substantially, functionally equivalent. In the event of the impossibility of the foregoing options, Seller shall provide Buyer a refund of the purchase price of the Product, Services and/or Documentation.

13. **Compliance with Laws and Standards:** Seller, in the performance of the Purchase Order, shall comply with all federal, state and local laws, rules and regulations, code and standards, applicable to or incorporated by reference in the Purchase Order, including, but not limited to, all applicable environmental protection laws, executive orders, rules and regulations, all data privacy laws, the International Traffic in Arms Regulations as amended, and all rules and regulations thereunder.

Each invoice submitted against the Purchase Order shall constitute a representation and warranty by Seller that the Work has been delivered in compliance with all such legal requirements, and if Buyer is subjected to any liability as the result of Seller's or its subcontractors' failure to comply with the requirements of this clause, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense resulting from such failure. Seller agrees to furnish information, within seven (7) days of any, payment, offer, or agreement to pay "political contributions" or "fees or commissions" (as those terms are defined at 22 C.F.R. 130) with respect to any sale by the Buyer for which a license or approval is required from the Office of Defense Trade Controls, Department of State or any sale pursuant to a contract with the Department of Defense under Section 22 of the Arms Export Control Act (22 U.S.C. § 2762).

14. **Termination:**

**a. Termination for Default:** Buyer may, by written notice, terminate this Purchase Order for Seller's default, in whole or in part, and/or cancel all or any part of the undelivered portion of the Purchase Order if Seller:

- (i) Fails to deliver the Product or Documentation or perform the Services by the time or in the manner specified in the Purchase Order;
- (ii) Fails to make progress which, in Buyer's reasonable judgement, endangers performance of the Purchase Order in accordance with its terms;
- (iii) Fails to furnish adequate assurances after a written request by Buyer for such assurance when reasonable grounds for insecurity arise with respect to Seller's performance;
- (iv) Files or has filed against it a petition of bankruptcy
- (v) Fails to deliver the Product or Documentation and/or perform the Services that meet the specifications; and/or
- (vi) Fails to perform or comply with any obligation of the Purchase Order or any part thereof;

and, in any of these circumstances, (i) through (vi) above, within ten (10) days after receipt of notice from Buyer specifying the failure, does not cure the failure or provide Buyer with a written detailed plan adequate to cure the failure if such failure reasonably cannot be cured within such ten (10) days and such plan is acceptable to Buyer.

Any such termination or cancellation shall be without liability to Buyer except to pay for completed Work delivered and accepted by Buyer prior to termination or cancellation. In the event of any such termination or cancellation, Buyer may take possession of any materials or equipment incorporated or contemplated to be incorporated into the Work and cause the Work to be completed in whatever manner Buyer deems appropriate at the Seller's sole cost and expense. Seller shall promptly assign to Buyer, or Buyer's designee, such contracts and Purchase Orders as Buyer shall request be so assigned in connection with the Work.

Upon termination or cancellation, Buyer may procure from another party, at Seller's expense, and upon terms it deems appropriate, Goods, software, articles, documents or other materials, and any data or other information or services similar to those so terminated or cancelled. Seller agrees that it will be liable for Buyer's re-procurement charges, which exceed the amount which would have been due to the Seller had the Seller satisfactorily completed the Purchase Order. Seller shall continue performance of the Purchase Order to the extent not terminated or cancelled.

As an alternate remedy and in lieu of termination or cancellation for default, Buyer, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller's performance, making Seller liable for any costs, expenses or damages arising from any failure of Seller's performance. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Purchase Order, Seller shall promptly notify Buyer in writing. Any such extension and/or waiver by Buyer shall not be construed as a continuous or future waiver of such provision nor shall it in any way affect the right of Buyer to terminate the Purchase Order or cancel the Purchase Order for default in relation to Seller's late delivery, late performance or other deficiencies. These rights and remedies are in addition to any other rights and remedies available to Buyer under these terms and conditions, in law or in equity.

**b. Termination for Insolvency or Prolonged Delay:** If Seller ceases to conduct its operations in the normal course of business, fails to meet its obligations as they mature, becomes insolvent, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, a receiver for Seller is appointed or applied for, an assignment for the benefit of creditors is made or an excused delay (or the aggregate time of multiple excused delays) lasts more than sixty (60) days, Buyer may immediately terminate this Purchase Order without liability, except for Work completed, delivered and accepted within a reasonable period after termination (which will be paid for at the Purchase Order price).

**c. Termination for Convenience:** Buyer may, by written notice, terminate the Purchase Order for Buyer's convenience, in whole or in part, at any time. In such event, Seller shall promptly comply with the directions contained in such notice and shall, subject to such direction: (a) Take all necessary action to stop the work terminated, as provided in the notice, minimizing costs and liabilities and ensure that no further steps are taken to produce any undelivered Product or Documentation and/or perform any unperformed Services, (b) protect, preserve and deliver any property related to the Purchase Order which is in Seller's possession pursuant to Buyer's direction; (c) use its best endeavors to mitigate any loss it may have incurred as a result of termination; (d) place no further orders or subcontracts except as may be necessary for the completion of Work not terminated; and (e) continue the performance of such part of the Work, if any, as may not have been terminated by the notice.

Upon termination under this clause, Buyer and Seller shall negotiate reasonable termination costs consistent with costs allowable under Article 9 entitled Changes, which are identified by Seller within thirty (30) days of Buyer's termination notice to Seller, unless the parties have agreed to a termination schedule in writing. Seller shall be entitled to: (a) reimbursement for its actual costs incurred up to and including the date of termination, such cost to be determined in accordance with current industry practices. In no event shall Buyer's obligations, as a consequence of the termination, exceed the Purchase Order price of the Work terminated, less the aggregate of all prior payments made.

Upon payment of the amounts specified above, Seller shall make such disposition of completed or uncompleted Work or any raw, semi-processed or completed materials as Buyer may direct. In connection with any such termination, Buyer may examine Seller's records relating to the Purchase Order as Buyer may deem necessary, provided, however, that if Seller objects to an examination of Seller's records by Buyer, a mutually acceptable independent certified public accounting firm may make such examination and prepare a report for both parties at Seller's sole expense.

15. **Subcontracting:** Seller shall not subcontract any portion of the Work without the prior written approval of Buyer; provided, however, that, Seller's procurement of raw materials or services normally purchased by Seller and required by Seller in order to fulfill the Purchase Order shall not be construed as a subcontract. This restriction on subcontracting shall not apply to the Original Equipment Manufacturer's authorized distributors or dealers, nor shall it apply to purchases of standard commercial articles, on which Seller will perform further Work. Subject to the foregoing, if Seller subcontracts any part of the Work under the Purchase Order outside of the final destination country where the Products and Documentation will be delivered or the Services performed, unless otherwise agreed in the Purchase Order, Seller shall be responsible for complying with all customs requirements and export control regulations related to such subcontracts. The Seller shall flow-down the provisions of the Purchase Order and its appendices to its suppliers through the Seller's Purchase Orders to the extent necessary.

16. **Warranty:** Seller warrants that the Product and Documentation delivered hereunder shall be free from defects in design, workmanship and materials; shall be of merchantable quality; shall be fit for the purpose intended; shall perform in the manner specified; be free of any defects in title and shall conform to all requirements of the Purchase Order. All Product and Documentation shall be warranted by Seller for two (2) years from the date such Product and/or Documentation is placed in service by Buyer or four (4) years after acceptance by Buyer, whichever first occurs.

Any Product and/or Documentation to be delivered hereunder shall consist of new materials, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety unless specifically authorized by the Buyer in accordance with the Purchase Order. Seller shall maintain lot traceability for all Product and/or Documentation supplied on each Purchase Order.

Any inspection, delivery, review, approval of designs and/or other documentation furnished by Seller, or payment shall not relieve Seller of its obligations under any requirement of the Purchase Order, including these warranties. Seller's warranties hereunder shall run to Buyer, its successors, assigns, customers and users of the Product, Documentation and/or Services and shall extend to any defect or nonconformity arising under the warranties.

Seller warrants that Services furnished by Seller shall reflect the highest standards of professional knowledge and judgment, shall be free from defects in workmanship and shall conform to all requirements of this Purchase Order, until 12 months from the completion of such Services. With respect to any defective Services, Buyer, without waiving any remedies provided by law and/or under this Purchase Order, may require Seller, at its sole expense, as directed by Buyer, to promptly: (a) re-perform the non-conforming Services, or (b) refund the purchase price or appropriate portion thereof to Buyer.

Seller shall promptly address and respond to Buyer's notifications of defects or nonconformities and agrees that Time is of the Essence in all instances of providing warranty service to Buyer.

With respect to any defective Product and/or Documentation Buyer, without waiving any remedies provided by law and/or under this Purchase Order, may require Seller, at its sole expense, as directed by Buyer, to promptly: (a) repair or replace the defective or non-conforming Product/Documentation (and correcting any plans, specifications or drawings affected) in a timely manner; (b) furnish Buyer any materials, parts and instructions necessary to enable Buyer or its customer to correct or have corrected the defect or nonconformity, or (c) refund the purchase price, or an appropriate portion thereof, to Buyer. All handling, storage, freight (both ways) and demurrage charges shall be at the cost of Seller. If Seller refuses or fails promptly to repair or replace such Product/Documentation, furnish Buyer any materials, parts and instructions or to re-perform Services when requested by Buyer, Buyer may, by contract or otherwise, repair or replace such Product / Documentation, obtain any necessary materials, parts and instructions or procure substitute services and Seller agrees to reimburse Buyer for the costs and expenses incurred by Buyer thereby. Buyer shall be entitled to avail itself cumulatively of all remedies provided under the Purchase Order, in law or in equity.

The warranty with respect to any corrected Product, Documentation or Services shall be extended to one (1) year from the date of repair or replacement or re-performance of Service(s) or as stated in the paragraphs above, whichever is later.

17. **Excusable Delays:** Neither party shall be in default for any delay or failure to perform hereunder due to causes beyond its control and without its fault or negligence ("Force Majeure"); provided, that: (a) the Products to be furnished are not obtainable from other sources in sufficient time to permit Seller to meet the delivery schedule; (b) Seller furnishes prompt written notice to Buyer of the occurrence of any such cause that will or may delay Seller's performance; and (c) uses all reasonable efforts to mitigate the impact of such event of Force Majeure. Any delay or failure to perform caused by the default of a supplier of the Seller at any lower-tier shall be excused only if it is beyond the control of both Seller and such supplier and without the fault or negligence of either. If delivery of any Products or performance of Services is delayed by Force Majeure for more than three (3) months, Buyer may, without any additional extension, cancel all or part of any Purchase Order with respect to the delayed Products and/or Services, and exercise any of its remedies hereunder or at law.

18. **Counterfeit and/or Suspect Work:** Counterfeit and/or Suspect Work (CSW) is rebuttably presumed to not be in conformance with the requirements of the Purchase Order. Seller agrees that only new and authentic materials will be used in Seller's Product or Work and that any delivered Product to Buyer contains no Counterfeit and/or Suspect Work. No other Item other than a new and authentic Item is to be used by Seller unless approved in advance in writing by Buyer. Seller shall implement a procedure compliant with industry standards SAE AS5553, SAE AS6081, and SAE AS6174, applicable at all levels of supply, to control CSW and ensure that CSW is not being delivered or incorporated into any of Seller's Product or Work. In this regard, Seller shall only incorporate Items that are sourced from Original Equipment Manufacturers ("OEMs"), Original Component Manufacturers ("OCMs") and their respective authorized distributors. Deviations from this general standard must be approved in writing by Buyer. Seller must make available to Buyer, at Buyer's request, OEM/OCM documentation that authenticates the traceability of the Items to that applicable OEM/OCM. Purchase of Items from independent distributors is not authorized unless first approved in writing by Buyer's purchasing representative. Buyer's approval of Seller request(s) does not relieve Seller's responsibility to comply with all Purchase Order requirements, including the obligations of this Article.

If Seller becomes aware or suspects that it has furnished CSW in any form, Seller shall immediately notify Buyer in writing with the pertinent facts and Seller shall immediately: (a) Provide OEM/OCM documentation that authenticates the traceability of the Items in question and a certificate of conformance evidencing compliance with the requirements of the Purchase Order; or

(b) promptly replace the CSW with Items acceptable to Buyer at Seller's sole cost and expense. Seller shall also be liable for the costs associated with, but not limited to, costs of removing CSW, costs of reinstalling replacement Items, any testing required by the reinstallation of replacement parts, travel expenses, investigative expenses, legal expenses, shipping costs, fines or penalties, labor, replacement Items and administrative expenses.

If Buyer, at any time, has reasonable cause to believe Seller has furnished CSW, in any form, Buyer shall notify Seller and Seller shall immediately: (a) Provide OEM/OCM documentation that authenticates the traceability of the Items in question and a certificate of conformance evidencing compliance with the requirements of the Purchase Order; or (b) promptly replace the CSW with Items acceptable to Buyer at Seller's sole cost and expense. Seller shall also be liable for the costs associated with, but not limited to, costs of removing CSW, costs of reinstalling replacement Items, any testing required by the reinstallation of replacement parts, travel expenses, investigative expenses, legal expenses, shipping costs, fines or penalties, labor, replacement Items and administrative expenses.

Seller's delivery of CSW to Buyer shall be grounds for the Buyer to terminate the Purchase Order for default. Buyer may, at its option, implement the rights and remedies available to Buyer, which are provided in Article 13(a) entitled Termination for Default in addition to any other rights and remedies available to Buyer under these Terms, in law or in equity.

If this Purchase Order is in support of a U.S. Government contract, for the (a) supply of electronic parts, (b) supply of end items, components, parts or assemblies containing electronic parts, or (c) provisioning of services where the Seller will supply electronic parts or components, parts, or assemblies containing electronic parts as part of the service then the provisions of paragraphs (a)-(e) of DFARS 252.246-7007, "Contractor Counterfeit Electronic Part Detection and Avoidance System," in effect on the date of this Purchase Order, including its definition of "electronic parts", are incorporated in this paragraph by reference. Where necessary to make these provisions of DFARS 252.246-7007 applicable to this Purchase Order "Contracting Officer" shall mean both "Contracting Officer" and "Buyer."

The Supplier shall provide it's full cooperation in any investigations as required by the Buyer.

The substance of this clause shall be incorporated into any subcontract or Purchase Order entered into by Seller for the performance of any part of the Work under this Purchase Order. In addition, if this purchase Order is in support of a Government Contract, the Customer specific amendments will apply.

19. **Buyer Proprietary Information:** Seller agrees that, as a condition to the receipt of Buyer Proprietary Information or Buyer's Customer's Proprietary Information under Buyer contract, hereunder, Seller shall: (a) not disclose, directly or indirectly, to any third party any portion of the Proprietary Information without the prior written consent of Buyer; (b) not use the Buyer Proprietary Information except for the purpose of fulfilling Buyer's requirements under this Purchase Order; (c) promptly return or destroy, at Buyer's request, all materials, Documentation and notes containing the Buyer Proprietary Information received hereunder except for copies of any computer records or electronic files containing the Buyer Proprietary Information, which have been created by automated processes such as archiving or back-up procedures; (d) take all reasonably necessary precautions to protect the confidentiality of the Buyer Proprietary Information received hereunder and exercise at least the same degree of care in safeguarding the Buyer Proprietary Information as Seller would with its own proprietary information; (e) inform all employees of Seller to whom Buyer Proprietary Information may be disclosed or made available of the proprietary interest of Buyer therein and of the obligations of Seller with respect thereto; and (f) promptly advise Buyer in writing upon learning of any unauthorized use or disclosure of the Buyer Proprietary Information.

Any knowledge or information, which Seller shall have disclosed or may hereafter disclose to Buyer and which in any way relates to the Goods or Services purchased under this Purchase Order except to the extent deemed to be the property of the Seller prior to the issuance of this Purchase Order, shall not be considered Seller's confidential or proprietary information and shall be acquired by Buyer free from any restrictions as part of the consideration for this Purchase Order. Buyer may use such information for any purpose, whatsoever, irrespective of any statement to the contrary appearing on such information.

Seller shall not make any announcement, take or release any photographs, nor release or publish any information concerning this Purchase Order or any part thereof or with respect to its business relationship with Buyer, to any third party, member of the public, press, business entity, or any official body except as required by applicable law, rule, injunction or administrative order, without Buyer's prior written consent prior to such release or publication.

Should any information described above, be requested, subpoenaed or otherwise sought by a court or other judicial or administrative authority, this should be promptly brought to the attention of the Buyer to permit appropriate measures to be taken to protect the information. Under no circumstances should information be released to such authority without prior notification to, and agreement of, the Buyer.

Seller shall include all requirements of this Article, including this sentence, in all sub-tier orders under the Purchase Order. The confidentiality provisions and the obligations of this Article shall survive the termination or completion of this Purchase Order.

20. **Prices, Taxes, and Payments:** As compensation for the Product and/or Documentation purchased from Seller and/or Services performed by Seller, Buyer shall pay Seller the prices as set forth in the Purchase Order which shall be in Canadian Dollars unless otherwise agreed. Unless expressly stated in the Purchase Order, the prices stated in the Purchase Order are: (a) Firm and fixed for the delivery period shown; (b) not subject to price escalation for any reason; (c) inclusive of the costs of all tests and inspection; (d) inclusive of the cost of packing, packaging and crating required; (e) inclusive of all taxes, impositions, charges and exactions imposed on or measured by this Purchase Order (except for applicable sales and use taxes that are separately stated on Seller's invoice), whether levied in the country of manufacturing, the country from where the Products, Documentation and/or Services are provided, or any country through which the Products are transported. The prices shall not include any taxes, impositions, charges or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption. All other taxes imposed prior to delivery at the destination point are for the account of Seller, including property taxes imposed with respect to Product for which title has passed to Buyer pursuant to the Purchase Order, including but not limited to, inventory taxes that may be levied while Product is being stored by Seller or is otherwise in Seller's custody. There shall be no change in any Terms of the Purchase Order (including without limitation the price) on account of any change in taxes of any type applicable to any aspect of the Purchase Order. Payment shall be deemed to have been made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of amounts due Seller. Seller warrants that the prices for any Products, Documentation and/or Services under this Purchase Order do not exceed the prices for Goods and/or services offered by Seller to third parties in substantially similar quantities and under substantially similar terms and conditions.
- Unless otherwise stated in the Purchase Order, the payment due date, including discount periods, shall be net sixty (60) days computed from the date of the later of the actual delivery date; or the date of receipt of a correct invoice. The Buyer may invite the Seller to use a third-party financing option to pay the Seller ("Third Party Financier") subject to the availability of the financing service. In addition, the Buyer may require the Seller to transact its business with Buyer electronically. Seller acknowledges and agrees that the Buyer may use a third-party processor to process its invoices and Purchase Orders ("Third Party Processor"). Such Third-Party Financier and Third-Party Processor will have standard terms and conditions that will govern Seller's respective use of the Third-Party Financier services and/or the Third-Party Processor services. Seller agrees to accept or negotiate such third-party terms and conditions with the Third-Party Financier and/or the Third-Party Processor, including, without limitation, any required service fees. Seller further agrees that, by accepting such Third-Party Financier terms and such Third-Party Processor terms, it is entering into a separate agreement with such Third-Party Financier and/or Third-Party Processor, and that the Buyer will have no liability for, or relationship to, such transaction(s).
- BUYER shall have the right, without notice to the SELLER, to set off against and apply to such due and payable amount of any amount due to BUYER from SELLER. Such right shall be absolute and unconditional in all circumstances, regardless of the contract or entity through which the parties are acting with respect to the offset obligations and regardless of the existence or adequacy of any other direct or indirect security or any other right or remedy available to such BUYER. The provisions hereof shall not be deemed or construed to limit rights of set-off or liens or similar rights which BUYER may otherwise have by reason of applicable law or other agreement.
21. **Government Orders:** When the Product, Documentation and/or Services furnished are to be used in the performance of a contract or subcontract with a governmental body or other entity requiring compliance with similar laws and regulations, the additional and/or supplementary terms and conditions incorporated in this Purchase Order, available at: <https://www.cw-ems.com/indal/mississauga>, shall apply, along with all other laws and regulations applicable to such contract or subcontract, as such laws and regulations may be amended from time to time. Seller certifies that the prices charged herein do not exceed the maximum amounts permissible under any applicable price regulations, rulings, schedules or orders promulgated by any duly authorized governmental agency. Seller agrees that, upon the request of Buyer, it will negotiate in good faith with Buyer to incorporate provisions herein or to change provisions herein, as Buyer may reasonably deem necessary to comply with the provisions of the applicable Prime Contract, as amended. If any of the terms and conditions contained herein are not applicable by the type of order, or by their terms they shall be self-deleting. Any dispute as to the applicability of such terms and conditions shall be resolved by the parties in accordance with Article 27, Choice of Law and Dispute Resolution, herein.
- If Seller is a manufacturer and/or exports ITAR-controlled articles or services, Seller represents that it is duly registered with the U.S. Department of State and will maintain its registration for the duration of the Order, in accordance with 22 C.F.R. Part 122."
- In the event the procurement requires Seller to be a Department of Defence Contractor, the Seller represents that it is or prepared to be registered in the US System for Award Management (SAM).
22. **Buyer Furnished Property:** Seller shall not use Buyer Furnished Property on any other work or orders without the prior written consent of Buyer. Seller shall not alter or use Buyer Furnished Property for any purpose or for any other party other than that specified by Buyer, without the prior written consent of Buyer.
- Title to Buyer Furnished Property shall remain with Buyer or Buyer's customer, in relation to customer property under Buyer's control. Seller shall segregate and clearly mark Buyer Furnished Property to show Buyer's ownership and shall preserve Buyer's title thereto free and clear of all encumbrances. Seller shall, if requested by Buyer, submit to Buyer an itemized inventory showing the description and location of each item of Buyer Furnished Property. Buyer and, Buyer's customer shall have the right to enter Seller's premises to inspect Buyer Furnished Property. Should Seller fail to perform the duties imposed upon it by this Article or should Buyer at any time have reason to believe that its title to, or right to the possession of, any Buyer Furnished Property is threatened, Buyer shall have the right to enter upon Seller's premises and remove such property. Upon completion or termination of the Purchase Order, Seller shall segregate all Buyer Furnished Property and shall return or dispose of same as Buyer may direct. Seller shall make such property available to Buyer per Buyer's request, including preparation, packaging, and shipping as directed. Expense for preparation for shipment shall be for Seller's account. Buyer reserves the right to abandon Buyer Furnished Property at no additional cost to Buyer upon issuance of written notification to Seller of such intent.
- Seller shall, at its expense, store, protect, preserve and perform all maintenance, repairs and replacements necessary with respect to Buyer Furnished Property so that the same may remain suitable for the use contemplated hereby and may be returned to Buyer in as good condition as when received, except for reasonable wear and tear or consumption of materials necessarily resulting from their use. Seller shall give Buyer prompt written notice of any Buyer Furnished Property which, upon delivery, is found to be defective. The correction or replacement of such defective property shall be accomplished at Buyer's written direction.
- Upon delivery to Seller, the risk of loss or damage to Buyer Furnished Property shall be upon Seller. Seller shall, at its expense, secure, or maintain extended insurance coverage in an amount sufficient to cover the replacement cost of the Buyer Furnished Property. Risk of loss or damage shall transfer to Buyer when such Property is returned to Buyer.
- Seller waives any and all claims relating to loss, damage, injury or delay arising out of or related to Buyer Furnished Property and except for claims arising from Buyer's gross negligence or willful misconduct Seller shall indemnify Buyer against any and all liability for damage to Property or injury to or death of persons arising from or incidental to the presence or use of Buyer Furnished Property, whether such damage, injury, or death be caused by defects in such Buyer Furnished Property, negligence in the use thereof, strict liability, or otherwise.
23. **Toxic Substances:**
- a.** Where the Product is to be delivered into North America, Seller warrants that the manufacture or supply of Items are compliant to Canada's Prohibition of Certain Toxic Substances Regulations, 2012 and that each and every chemical substance delivered under the Purchase Order shall, at the time of sale, transfer or delivery, be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to Section 8(b) of the Toxic Substance Control Act (Public Law 94-469), as may be amended. Seller shall submit to Buyer, Safety Data Sheets (SDS), prepared in accordance with OSHA Hazardous Communication Standard, 29 CFR 1910.1200, as required.
- b.** Seller warrants that all the Product furnished hereunder have been completely and accurately labelled pursuant to the requirements of 40 CFR Part 82, "Protection of Stratospheric Ozone" or that such Product do not require such labelling.
- c.** Where the Product is to be delivered into Europe, Seller shall ensure that hazardous or sensitive substances are clearly marked as such in accordance with Control of Substances Hazardous to Health Regulations 1988 (COSHH) and any subsequent amendment thereof and that any safety precaution data sheets required for their handling are also clearly indicated on packaging and delivered therewith.
- Seller shall ensure that all substances, preparations and articles supplied conform to the EU Regulation (EC N° 1907/2006) on the Registration, Evaluation and Authorization of Chemicals (REACH) which came into force in June 2007. Ensuring that any substances, preparations or articles that contain any of the substances detailed on the "Candidate List" published by the European Chemical Agency (ECHA), are detailed on the Health and Safety data sheet supplied with the Product and that Buyer is fully informed and agrees to accept these goods.
- d.** Seller shall be responsible for all chemical substances or mixtures which it or its subcontractors or suppliers of any tier bring upon premises of Buyer or Buyer's customer. Seller shall be responsible for removing and disposing all such substances and/or mixtures, containers, materials and residue from their use, in accordance with all applicable federal, state and/or local statutes, laws, regulations, rules, orders and ordinances.
24. **Survival:** The Articles entitled "Inspection, Access, Oversight and Audit," "Ownership," "Intellectual Property Indemnity and Remedies," "Compliance with Laws and Standards," "Warranty," "Buyer Proprietary Information," "Buyer Furnished Property," "Software License and Anti-Virus Warranty," "Toxic Substances" and "Conflict Minerals Compliance," apply notwithstanding any other requirements of the Purchase Order and shall survive completion or termination of the Purchase Order.
25. **Insurance and Indemnity:** In addition to, and without limiting any liability, warranty and/or indemnity obligation contained in this Purchase Order, Seller shall, as a separate obligation, carry and pay for insurance of the types and in the minimum amounts as follows, covering items, risks, and operations related to or required to fulfill this Purchase Order, with insurance carriers acceptable to Buyer: (a) Workers' Compensation in an amount no less than the applicable statutory minimum requirement and Employer's Liability Insurance in an amount of no less than \$2 million USD; (b) Commercial General Liability Insurance on an "Occurrence Form" with a combined single limit of no less than \$5 million USD including coverage for (i) premises and operations, (ii) products and completed operations, (iii) explosion, collapse, and underground damage, and (iv) contractual liability; (c) Business Automobile Liability Insurance covering liabilities for the death of or injury to any one person and liabilities for loss of or damage to property resulting from any one accident with a combined single limit of not less than \$5 million per occurrence; (d) Excess liability covering the matters described and in excess of the coverage provided by (a), (b), and (c) above with a combined single limit of no less than \$5 million USD per occurrence. Buyer makes no representations or warranties that the insurance required under this Article will be sufficient or adequate for Seller.
- All Seller's insurance policies shall be issued by an acceptable insurance company and shall include the following: (a) Buyer and its subsidiaries and affiliates shall be named as an additional insured on all insurance required to be maintained hereunder (except for Workers' Compensation and Professional Liability); (b) a waiver of subrogation in favor of Buyer (except on Professional Liability); (c) cross liability or severability of interest coverage (liability policies only); (d) Seller's insurance is primary and any insurance maintained by Buyer or principal is considered excess and non-contributory; and (e) a 30-day advance written notice in the event of cancellation, non-renewal or material change of any policy.
- Upon Buyer's request or prior to commencing work under a Purchase Order, Seller shall furnish Buyer Certificates of Insurance that document the insurance required to be maintained hereunder and provide evidence of registration under any applicable Workman's Compensation statute.
- In the event that any of the Product, Documentation and/or Services provided under a Purchase Order are supplied by a subcontractor, Seller will cause each such subcontractor to comply with the obligations imposed upon Seller pursuant to this paragraph as if such subcontractor were Seller hereunder.
- Seller assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any injury (including death), or damage to property sustained in connection with or to have arisen out of the acts or omissions of Seller or its subcontractors, agents or employees. Seller shall indemnify and hold Buyer harmless from and against any and all claims, demands, actions, causes of action, suits, damages, expenses (including attorneys' fees) and liabilities whatsoever resulting from or arising in any manner on account of or by reasons of any injury to or death of any person or any damage to or loss of property attributable to the acts or omissions of the Seller or its subcontractors, agents or employee, including the Product and/or Documentation delivered or Service performed hereunder.
- As to work performed on the Buyer's premises, the additional supplementary terms set forth in Appendix D (Insurance and Indemnity Agreement) shall be a part of this Purchase Order, whether or not Appendix D is attached hereto. The Seller must obtain copies of this form from the Buyer's cognizant purchasing representative and provide completed copies in amounts and with insurance carriers satisfactory to the Buyer prior to entry on the Curtiss-Wright Indal Technologies property.
26. **Choice of Law and Dispute Resolution:** The Purchase Order shall be interpreted in accordance with the laws of the Province of Ontario, Canada, and the Laws of Canada applicable therein, exclusive of any choice of law provisions. The Seller and Buyer expressly agree to exclude from this Purchase Order the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto.
- a. Dispute Resolution – Management Meetings:**
- If any dispute arises in connection with the Purchase Order, the parties' respective senior representatives will, within ten (10) days after receipt of a written request from either Party to the other Party, in accordance with this Article, meet in a good faith effort to resolve the dispute without recourse to legal proceedings. If the parties fail to reach agreement within thirty (30) days after receipt of the written request, any dispute or difference may be referred for resolution by arbitration in accordance with the following Sections. All proceedings shall be conducted in the English language.
- b. Dispute Resolution:**
- Any dispute, controversy or claim arising out of or relating to this Purchase Order, or the breach thereof, shall be settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce ("ICC") as in force at the commencement of the arbitration by one or more arbitrators appointed in accordance with the said Rules. If the dispute involves \$5 million or less, the arbitration shall be conducted by a single arbitrator. Either Party to this agreement may propose to the other the names of one or more persons, one of whom would serve as the sole arbitrator. If, within thirty (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 single 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 (3) arbitrators. Within fifteen (15) days after the commencement of arbitration, each Party shall select one person to act as arbitrator and the two (2) selected shall select a third arbitrator (who shall serve as the chairperson of the tribunal) within ten (10) days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the ICC in accordance with its Rules. No arbitrator may be affiliated, directly or indirectly, with any of the Parties, including, without limitation, as an employee, consultant, partner or shareholder.
- Consistent with the expedited nature of arbitration, each Party will, upon the written request of the other Party, promptly provide the other with copies of any documents relevant to the issues raised by any claim or counterclaim. Any dispute regarding discovery, or the relevance or scope thereof, shall be determined by the arbitrator(s), which determination shall be conclusive. All discovery shall be completed within sixty (60) days following the appointment of the arbitrator(s). The place of arbitration shall be Ontario, Canada. Any arbitral tribunal constituted pursuant to this Purchase Order shall apply the law of Ontario, Canada and the Laws of Canada applicable 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. Notwithstanding the foregoing, Buyer may initiate suit in any jurisdiction for protection and enforcement of its intellectual property rights. The Parties acknowledge that this Purchase Order and any award rendered pursuant to it shall be governed by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The award shall be made within nine (9) months of the filing of the notice of intention to arbitrate, and the arbitrator(s) shall agree to comply with this schedule before accepting appointment; however, this time limit may be extended by agreement of the parties or by the arbitrator(s) if necessary.
- The Parties shall each bear and pay 50% of the fees and other expenses of the ICC in connection with the arbitration set forth herein; provided, however, that if the ICC identifies a prevailing Party, then the non-prevailing Party shall be responsible for reimbursing the prevailing Party for all of its reasonable out-of-pocket costs and expenses incurred in connection with the resolution of the dispute, including all reasonable attorneys' fees, accounting fees and experts' fees, and shall also be responsible for paying all of the costs associated with the arbitration provided for herein, including all fees and expenses of the ICC in connection with the arbitration.
- Except as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

27. **Severability:** If any provision of this Agreement shall be declared invalid or unenforceable by judicial, arbitral or administrative decision, any such provision shall be modified by negotiations to the extent necessary to avoid such violation and in a manner not affecting the validity or enforceability of any other provision of this Agreement, which shall remain valid and enforceable to the fullest extent of the law.
28. **Software License and Anti-Virus Warranty:** In the event that any Software or Software documentation is provided to Buyer by Seller in any form whatsoever under a Purchase Order and no Software license agreement governing the sale has been signed between Buyer and Seller, Buyer and Seller agree to accept the terms and conditions stated below effective the date of the first delivery hereunder:
- a.** Subject to the Terms herein, the Seller grants to Buyer a nonexclusive, transferable license to use the Software or Software documentation in connection with the Product, Documentation and/or Services being provided pursuant to this Purchase Order.
- b.** Making copies of Software or documentation is permitted so long as Buyer reproduces and includes all Seller proprietary and copyright notices and other legends in the same manner that Seller provides such notices and legends, both in and on every copy of licensed Software and documentation and in any form.
- c.** This Software license is effective as of the date of first delivery hereunder and shall continue until terminated by Buyer for any reason whatsoever upon thirty (30) days prior written notice to Seller, provided Buyer ceases using and either returns or destroys Seller Software and documentation; or by Seller, if Buyer does not comply with any of the Terms of this software license and Buyer fails to remedy such failure within thirty (30) days after having received notice from Seller of such failure.
- d.** This license and sale is subject to the laws and regulations, and other administrative acts, now or hereinafter in effect, of the United States, Canada, the United Kingdom, and other governments and their departments and agencies relative to the exportation and/or re-exportation of licensed Software and documentation. Buyer acknowledges that it will be responsible for compliance as necessary with such laws, regulations and administrative acts. Software and hardware provided by the Seller shall not contain known computer viruses or other malicious Software in accordance with the following requirements:
- (i) Viruses are program code that replicate themselves on execution and create undesirable effects in computer systems. Malicious Software is program code intentionally added to programs or media to produce undesirable results. An unintentional Software error is not malicious code and will be resolved in accordance with other applicable Purchase Order requirements.
- (ii) The Seller shall take anti-virus and anti-malicious software precautions including installation and proper use of anti-virus Software where applicable and implementation of workplace awareness to avoid conveying known computer viruses or other malicious Software to the Buyer. Specifically, all computer files, disks, memories or other media produced by or utilized on operating systems supported by anti-virus utilities and provided by the Seller to the Buyer (other than third party supplied Software in its original, unopened packaging materials) shall be checked by the Seller prior to delivery to the Buyer to detect and remove any known computer virus or other known malicious Software. The Seller virus check shall be performed using the current signature file and Software revision for the Seller selected anti-virus Software. The Seller shall include a statement verifying that the check has been made prior to delivery to the Buyer. The Seller is not required to perform a virus check on media generated by operating systems not supported by anti-virus utilities.
- (iii) The Seller shall replace or correct media found to have virus / malicious Software during the Seller's check or later found by the Buyer during initial use (including receipt inspection virus check when applicable). The Buyer shall provide written notification regarding any virus / malicious Software contamination to the Seller.
- e.** The Seller shall not, without the Buyer's prior written consent (which may be withheld in its sole discretion or provided subject to conditions), include, incorporate, use or link (whether statically or dynamically) to any Free and Open Source Software, including without limitation any software distributed under the GNU General Public Licence, GNU Lesser General Public Licence or GNU Affero General Public Licence, Mozilla Public Licence, the Apache Licence, the Sun Community Source Licence, Berkeley Software Distribution licences or Sun Industry Standards Licence. The Seller must immediately notify the Buyer in writing if it becomes aware that any Free and Open Source Software is included, incorporated, used or linked to, in any part of the Items.
29. **Compliance with Export Control Laws:** The Seller acknowledges that performance of the Purchase Order is subject to its compliance with all applicable laws, regulations, and/or orders. Seller agrees that it will not export, re-export, resell, transfer or re-transfer, or otherwise ship or deliver any information, articles, assemblies, components, equipment, Goods, materials, products, Software, technical data or technology, which violates any Export Control Laws and if this procurement is subject to Industrial Security Requirements the Seller shall be registered under Canada's Contracts Security Program or the equivalent in the Sellers country, such as the National Industrial Security Program Operating Manual ("NISPO") As (DoD 5220.22-M). Seller shall provide Buyer with all applicable control classification information. Violation of any applicable law shall be deemed a material breach of this agreement
- The Seller shall not export, re-export, resell, transfer or re-transfer, directly or indirectly, any information, except as permitted by such Export Control Laws. Seller agrees that information, Software, technical data or technology received pursuant to this Purchase Order may be used only for the purpose specified by Buyer and may not be exported by Seller from the country in which it is received without the appropriate export authorisations and prior written approval of Buyer.
- Seller shall identify and mark all documents that contain information controlled for export under Export Control Laws, with appropriate and conspicuous export control markings, prior to transmittal to the Buyer. Seller is responsible for determining the appropriate Country of Origin (CO) for the Products it manufactures or assembles for Buyer and for marking these Products in English in accordance with the requirements of any applicable regulations. Further, Seller will cooperate fully with Buyer in supplying data to facilitate Buyer's origin reporting requirements and qualification for preferential origin programs. The following trade data elements must be available to be printed out for Buyer or be capable of being transferred electronically to Buyer on each commercial invoice prior to shipment of Products: Country of Origin; HTS Classification; Export Classification Control Number and jurisdiction; Export Permit or License number; Destination Control Statement as applicable, Buyer Part Number; Appropriate Delivery Term. Seller agrees that it will maintain, and reproduce upon demand, all documentation and records relating to the international transport of Buyer Products for a period of not less than five (5) years from the date of each shipment. Seller will provide written notice to Buyer in the event of an action by the Canadian, U.S. or other national government customs/export authorities that relates specifically to Products, Documentation and/or Services provided to Buyer by Seller.
- Seller shall not give any access to US origin information, Software, technical data or technology to a foreign person or entity contrary to any US extraterritorial export control law without the prior written consent of Buyer and any applicable export authorisations. No consent granted by Buyer in response to Seller's request under this paragraph shall relieve Seller of its obligations to comply with the provisions of this Article or the Export Control Laws, nor shall any such consent constitute a waiver of the requirements of this Article or the Export Control Laws, nor constitute consent for Seller to violate any provision of the Export Control Laws.
- Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs and expenses, including attorneys' fees, arising out of claims, suits, allegations or charges of Seller's failure to comply with the provisions of this Article and any breach of this Article shall be a material breach of this Purchase Order and grounds for terminating the Purchase Order for default. The substance of this Article entitled Compliance with Export Control Laws shall be incorporated by Seller into any subcontract entered into by the Seller for the performance of any part of the Work under this Purchase Order.
30. **Compliance Obligations:** The violation of any applicable law shall be deemed a material breach of this agreement. Buyer may, in its discretion, terminate this agreement and/or require Seller to implement a corrective action as a condition of continued future business.
- a. Anti-Corruption/Anti-Bribery:** Seller represents and warrants it shall (a) comply with the requirements of the U.S. Foreign Corrupt Practices Act ("FCPA.") (15 U.S.C. §§ 78dd-1, et seq., as amended), Canadian Corruption of Foreign Public Officials Act, the U.K. Bribery Act 2010 and any other applicable Anti-Corruption Laws regardless of whether the Seller is within the jurisdiction of the United States, Canada or the U.K.; (b) neither directly or indirectly, pay offer, give or promise to give anything of value in violation of any applicable country laws relating to Anti-Corruption or Anti-Bribery; and (c) not interact with any government official, political party, or public international organization on behalf of Buyer or in relation to this procurement without prior written permission of Buyer. Breach of this condition will be considered an irreparable material breach and shall entitle the Buyer to terminate without compensation to the Seller.
- b. No Gratuities:** Seller also warrants that they will neither directly or indirectly pay, offer, give, or promise to give anything of value to a Public Official or any person in violation of the FCPA, UK Bribery Act, Canadian Corruption of Foreign Public Officials Act or any other applicable Anti-Bribery and Corruption Laws and will abide by the Curtis Wright Code of Conduct - Curtis-Wright Corporation Policy No. 1A, "Code of Conduct – Suppliers and Customers" available on the world wide web at: [Ethics and Business Conduct | Curtis-Wright Corporation](#) and supplied with this agreement or will have their own equivalent policies.
- Seller acknowledges that it has reviewed a copy of the policy and will comply with the provisions within.
- Seller acknowledges and agrees to sign any Integrity Pacts in support of tenders or contracts, as required.
31. **Slavery / Human Trafficking:** Seller hereby certifies that the production of materials incorporated into any Products sold or otherwise provided to Buyer and/or its subsidiaries complies with laws regarding slavery and human trafficking of the states, provinces or countries in which Seller's company does business.
32. **Child / Forced Labour:** Seller shall comply with all local, state, and national laws relating to the prohibition on child / forced labour or compulsory labour. Seller shall comply with all applicable laws and industry standards relating to working hours and conditions. Seller also agrees at Buyers request to demonstrate, to the satisfaction of the Buyer, compliance with all requirements and provide access to the site for Buyer inspection. Seller also warrants that forced labor from Xinjiang Uyghur Autonomous Region of the People's Republic of China (XUAR) was not or will not be used in the performance of the contract.
33. **ESG** Seller represents and warrants that it shall be compliant with all relevant Laws relating to Environmental Matters.
34. **Conflict Minerals Compliance:** Seller agrees that it will (a) provide Buyer with the information Buyer in its sole discretion deems necessary to comply with the requirements of Section 1502 ("the Provision") of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Act") (Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010)) relating to disclosure and reporting obligations concerning the use of "conflict minerals" during each calendar year on or before February 1st of the next year and (b) undertake due diligence on its supply chain and any other measures as necessary to obtain the information necessary for Buyer to comply with such requirements.
35. **Code of Conduct:** Seller acknowledges that: (a) Curtis-Wright Corporation Policy No. 1A, "Code of Conduct – Suppliers and Customers" is available on the world wide web at: [Ethics and Business Conduct | Curtis-Wright Corporation](#) (b) Seller has reviewed a copy of the policy (c) Seller agrees to comply with the provisions of the policy and (d) shall flow down these requirements to any lower tier subcontractor.
36. **Data Security and Privacy:** Seller represents and warrants that it has implemented and shall be responsible for industry standard security measures intended to guard against unauthorized access to computer hardware and other equipment and/or software possessed and used by Seller to provide the products and services under this order in order for Seller data to be maintained accurately and safeguarded. Seller represents and warrants further that it complies with applicable industry security standards for information security management or similar standards, as applicable to the level of risk and types of data shared. Seller shall ensure compliance with all applicable Cyber Security laws or regulations and any certifications required by the Buyer.
37. **National Defense Authorization Act Section 889 Policies:** Buyer is prohibited from using telecommunication or video surveillance equipment as a substantial or essential component of any system or as critical technology as part of any system or services owned, controlled by, or connected to the People's Republic of China. Seller represents and warrants that it will not supply any items that fall into that category.
38. **Anti-Boycott Laws:** Seller acknowledges and agrees that it is responsible for complying with any Anti-Boycott Laws and Regulations. Seller warrants to Buyer that it shall not participate or comply with any boycott request.
39. **Anti-Money Laundering:** Seller acknowledges and agrees that it shall not participate in any money laundering schemes. Breach of this condition will be considered an irreparable material breach and shall entitle the Buyer to terminate without compensation to the Seller.
40. **Independent Contractor:** Seller is an independent contractor and is not an agent or employee of Buyer and has no authority to bind Buyer by contract or otherwise. It is not the intention of this agreement to confer a third party beneficiary right of action under this agreement.