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Revision Date: 06/23/2017		
Owner: ISO Management Rep.		

TERMS AND CONDITIONS OF PURCHASE ORDERS

1. DEFINITIONS

Materials means the goods, materials, and equipment delivered under this Purchase Order.

Purchase Order means this Purchase Order and all its attachments (such as these Terms and Conditions) and exhibits.

Purchaser means the entity who issued this Purchase Order.

Seller means the person or entity to whom this Purchase Order is issued.

Services mean the services/work provided under this Purchase Order.

Work means Services and Material provided under this Purchase Order.

2. ACCEPTANCE OF ORDER

By accepting this Purchase Order or any part thereof, the Seller agrees to and accepts the terms and conditions hereof. This Purchase Order, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Purchase Order, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Purchase Order. Any additional or conflicting terms provided by Seller are hereby objected to, and the parties agree Purchaser only agrees to this Purchase Order on the terms herein. Acknowledgement on a form other than the Purchase Order provided herein, or start of any, or completion of the execution of the Work or shipment or invoicing shall constitute acceptance of this Purchase Order in its entirety on the terms herein. Purchaser is not obligated to any minimum purchase or future purchase obligations under this Purchase Order.

3. QUANTITY

Seller shall provide the quantity indicated, and in no case, may Seller provide substitute products or products complying with alternative specifications without express written approval (and agreement upon change in price) from Purchaser. Seller shall not consider delivery complete until delivery of the stated quantity. Purchaser may reject all or any excess Materials. Any such rejected Materials shall be returned to Seller at Seller's risk and expense.

4. PRICES

Prices are firm, not subject to escalation or additional charges unless otherwise specifically agreed in writing. Any agreed-upon discounts will be computed from the date of receipt of correct invoices or acceptance of Work, whichever occurs last. The Seller agrees to credit, or reimburse at Purchaser's option, the Purchaser for any taxes, customs, duties or other levies that are included in the price(s) (per the front of this Purchase Order) but are not required to be paid.

5. INSPECTION

All Work covered by this Purchase Order shall be subject to inspection by the Purchaser and to rejection if not satisfactory. In addition to Purchaser's other remedies (including without limitation pursuant to breach of warranty herein), Materials so rejected will be held by the Purchaser at the Seller's risk pending directions from the Seller as to disposal at Seller's expense. If Seller does not promptly remove such rejected Materials, Purchaser, at its discretion, may do so at Seller's expense. Any expenses, including any test required to validate compliance, incurred by the Purchaser in respect of rejected Work will be for the Seller's account. Neither inspection nor failure to inspect shall



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relieve Seller of responsibility or warranties with respect to Work provided hereunder or imply acceptance thereof. Without limiting the foregoing, risk of loss or damage to Work shall not pass to Purchaser until completion, delivery to and acceptance by Purchaser.

6. DEFAULT

Time is of the essence with regard to this Purchase Order. The Purchaser reserves the right to terminate all or any part of this Purchase Order, without prejudice to any other rights and remedies it may have, in the event of failure by the Seller to perform as expressly specified in this Purchase Order, including without limitation by sending Materials, performing Services or delivering not in strict compliance with the terms herein. In the event of failure to deliver or otherwise perform as specified, the Purchaser may return or reject part or all of any Work, receive a refund / not owe for such Work, and costs incurred by the Purchaser as a result of such default will be for the Seller's account. Upon Seller's breach, Purchaser may also (in addition to any other remedies it may have) expressly use the remedy of "cover" at Seller's expense (and Seller shall promptly pay Purchaser any amounts owed from such cover).

7. CANCELLATION

Until notice of Seller's acceptance of the Purchase Order is received the Purchaser reserves the right to cancel the Purchase Order in whole or in part, with or without cause, at no cost to the Purchaser. In the event of cancellation of this Purchase Order by Purchaser after notice of Seller's acceptance is received by the Purchaser (except where such cancellation is due to the default of the Seller or otherwise permitted by the terms herein) the Seller shall be entitled to reimbursement for proven direct costs properly incurred to date of such cancellation without claim for loss of any other nature. Upon Seller's receipt of any notice of cancellation, Seller, unless otherwise directed, shall immediately discontinue all Work in process and otherwise mediate its costs and damages as much as possible.

8. FORCE MAJEURE

Should either the Purchaser or the Seller be precluded from or delayed in performing its obligations hereunder by reason of Act of God or any other cause beyond its reasonable control ("Force Majeure Events"), then such party shall be entitled to a reasonable extension of time, to be negotiated and agreed by both parties, for the performance of its obligations. In the event, however, that either party is precluded from or delayed in the performance of its obligations to an extent that any extension or time for performance would cause damage to the other party, then the other party may cancel this Purchase Order without further recourse. Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Purchase Order.

9. INDEMNIFICATION AND INSURANCE

Seller shall indemnify, defend and hold harmless the Purchaser, its affiliates, agents, employees and customers from and against any and all liabilities, losses, damages, suits, claims, demands, costs and expenses (including reasonable attorneys' fees) of any nature arising out of any of the following: (i) Work provided by or on behalf of Seller, (ii) performance by or on behalf of Seller hereunder, including in each case claims made or damages sustained in respect of property damage and personal injury (including death) except to the extent that such injury or damage is attributable to the gross negligence or willful misconduct of Purchaser, its affiliates, agents or employees, and/or (iii) any action or omission of Seller or its agents. Seller shall not enter into any settlement without Purchaser's prior written consent. Seller shall maintain in effect at all times, with insurers of adequate size and standing for such risks, insurance policies and coverages commensurate with the risks associated with its obligations under this Purchase Order. Upon request,



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Seller shall furnish Purchaser with an insurance certificate and other evidence requested by Purchaser evidencing that such insurance policies and coverages are in effect.

10. INFRINGEMENT

Seller shall indemnify, defend and hold harmless the Purchaser from and against any and all costs, damages, suits, claims and demands of any nature arising out of any claims of infringement or misappropriation of any patent, trademark, copyright, industrial design or other intellectual property right of a third party related to any Work (or parts thereof) purchased hereunder or otherwise related hereto.

11. ENCUMBRANCES

Seller agrees to deliver Work to be supplied hereunder free and clear of all liens and encumbrances, including without limitation claims of laborers or materialmen, and Purchaser may withhold payment pending receipt of evidence in form and substance satisfactory to it of the absence of such liens and encumbrances. In any case, in the event any lien or encumbrance on any Work is claimed related to this Purchase Order, Seller shall immediately have such lien or encumbrance removed.

12. NON-DISCLOSURE

Seller agrees that it will not disclose any secret or confidential information that it may obtain or that may be developed in connection with this Purchase Order, including without limitation the price and quantity of the Work, designs, specifications, technical requirements, technical documentation, source/system documentation, Purchaser's intended use for the Work, and any other information regarding Purchaser, its affiliates, business, prospects, parts, customers or plans. In addition, Seller shall only use such information as necessary to perform its obligations pursuant to this Purchase Order. Without limiting any of the foregoing and for the avoidance of doubt, Seller may not disclose for advertising purposes any business conducted with Purchaser or related information.

13. TOOLING, WORK PRODUCT AND OTHER PROPERTY

Drawings, tools, dies, designs, specifications, technical requirements, technical documentation, source/system documentation and other similar documents or data issued to the Seller by or on behalf of the Purchaser, or paid for by Purchaser, pertaining to Work covered by this Purchase Order: (i) remain the sole property of Purchaser (including without limitation all intellectual property), (ii) may be used by Seller solely to perform Work for Purchaser hereunder, (iii) shall be marked as property of Purchaser, (iv) may not be moved from Seller's premises without Purchaser's written consent, (v) shall be kept free of liens and encumbrances, (vi) may not be modified, and (vii) shall be returned to Purchaser upon the earlier of its request or completion of this Purchase Order. In addition, Seller shall ensure and be responsible for the safety and good condition of such property. No charge will be accepted by the Purchaser for patterns, pattern equipment, dies, jigs, fixtures, special apparatus or other similar items used in connection with the Work shown in this Purchase Order unless otherwise specifically agreed in writing. All materials, discoveries, ideas and otherwise developed by Seller in performing under this Purchase Order (i.e. work product) shall be owned by Purchaser and shall be considered work made for hire by Seller for Purchaser. Purchaser shall own all United States and international copyrights, patent and other intellectual property rights in work product. Seller agrees to assign, and upon creation of each work product automatically assigns, to Purchaser, its successors and assigns, ownership of all United States and international rights in each and every work product, insofar as any ownership and rights in such work product, by operation of law, are not automatically with Purchaser. From time to time upon Purchaser's request, Seller and/or its personnel shall confirm such assignment by execution and delivery of such assignments, confirmations or other written instruments as Purchaser may request. Purchaser, its successors and assigns, shall have the right to



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obtain and hold in its or their own names all copyright registrations, patents, and other evidence of rights that may be available for work product.

14. GUARANTIES AND WARRANTIES

Seller guaranties and warrants that the Work will be suitable for the specified purpose for which it is purchased for a period of ONE year after acceptance by Purchaser. In addition, the Seller expressly guaranties and warrants that for a period of two years after acceptance by Purchaser: (i) all Work shall conform to the strict requirements and specifications of this Purchase Order; (ii) all design, workmanship and otherwise regarding all Work shall be free of defects and failures; (iii) all Work shall be performed in accordance with no less than industry standards by qualified personnel; (iv) none of the Work infringe the intellectual property of any third party, and no Work are subject to restrictions on use; and (v) all Work, and all actions, practices and operations by Seller related hereto, comply with all applicable law. In the event of failure to adhere to any of the forgoing, in addition to any other remedies Purchaser may have, all Work shall be replaced or repaired at Purchaser's or its customer's site by the Seller immediately at no additional cost. Any non-conforming Services shall be re-performed. In the event that the Seller is unable or unwilling to effect immediately such repair, replacement, or re-performance the Purchaser shall have the right to effect or have effected such repair, replacement, or reperformance at the Seller's expense. If Purchaser approves sending any Materials back to Seller for repair, Seller shall also be responsible for and promptly pay all repackaging, handling and transportation charges (both ways). In all cases, Seller shall be expressly responsible for and promptly pay all labor costs, customer chargebacks and all other damages and costs of Purchaser and its customer. Any attempt by Seller to disclaim any of the warranties or guaranties herein shall be void and of no effect.

15. ASSIGNMENT AND SUBCONTRACTING

Seller shall not assign, transfer, delegate or subcontract this Purchase Order or Work related hereto (in whole or in part) without the Purchaser's prior written approval. Any such assignment or subcontract without such written approval shall render this Purchase Order voidable at the Purchaser's option. In all cases, Seller shall remain liable for this Purchase Order as the primary obligor and Seller shall ensure that any assignee or subcontractor complies with all of the terms herein. "Subcontract" is to be broadly interpreted and includes the use of any nonemployee agent.

16. GOVERNING LAW

This Purchase Order and the underlying transactions, and all matters relating to this Purchase Order, will be governed by the laws of the State of California applicable to contracts made without giving effect to any conflict of law provisions thereof; provided, however, the UN Convention on Contracts for the International Sale of Goods is expressly excluded/disclaimed and not applicable to this Agreement or any underlying transactions. Any controversy which may arise between the parties with regard to validity, effectiveness, interpretation and enforcement of this Contract shall be submitted to arbitration under the American Arbitration Association in English under 3 neutral arbitrators in or near Moorpark, CA.

17. CONFLICTS

In case of a conflict between these "Terms and Conditions of Purchase" and any other terms on the front page(s) of the Purchase Order, the text of the front page(s) of the Purchase Order shall control. Furthermore, the Purchaser shall not be bound by any agreement modifying in any way the Terms and Conditions or the terms on the front page(s) of the Purchase Order, and/or any attachments unless said amendment is subsequent to the date of the Purchase Order, is in writing, and is signed by a duly authorized representative of the Purchaser.



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18. INVOICING

Invoices will be rendered by the Seller after all Materials have been received by Purchaser and the Services performed. A separate invoice must be issued for each Purchase Order. Each invoice will contain a complete description of the Materials delivered or Services rendered and show the Purchase Order number. Any sales taxes, duties and transportation charges which are the responsibility of Purchaser pursuant to the front of this Purchase Order will be shown separately on each invoice. Invoices must be mailed or can be emailed to the Purchaser at the address provided on the Purchase Order. Notwithstanding any provision contained in any invoice, in no event shall there be any interest or other charges on overdue invoices, and any such purported amounts will not be owed or paid.

19. DELIVERY AND SHIPPING

Seller must comply with the stated schedule and delivery date(s) which are meant to be the "Delivery Date" at the Purchaser's facility. Seller shall ensure that the quantities and delivery schedules herein are effected ON TIME. Subject to Section 14 and unless otherwise specified on the face of the Purchase Order, Seller shall pay for freight charges. If the face of the Purchase Order specifically states that the Purchaser is responsible for any freight charges, such charges shall be included as a separate line item on the invoice. The invoice on which these charges are shown (as a separate item) must be accompanied by a signed original and copies of bills of lading or express receipts and receipted freight or express bills to substantiate such charges. In case of delays, the Seller will be responsible for all associated costs related with such delays including special transport in order to ensure prompt delivery. Even if Purchaser is responsible for shipping, the Seller shall be responsible for any excess transportation charges incurred by making partial shipments not specifically authorized in writing by the Purchaser. Materials shipped to Purchaser in advance of schedule may be returned to Seller at Seller's expense. Notwithstanding any provision to the contrary, for international transactions, Seller shall be exporter of record and responsible for carrying out related customs formalities and, for any Materials returned to Seller that requires import, Seller shall carry out the related customer formalities and act as importer of record. The Purchase Order number must appear on all shipping manifests, bills of lading, invoices and correspondence and must be marked on or tagged to all Material shipped. A packing list and any other requested document must accompany each shipment showing Purchase Order number, item number and quantity of each product packaged (collectively, "Order Information"). (All other documentation should also include such Order Information). For any international shipments (except for shipments to Purchaser's customer's location), Seller shall also include a copy of airway or truck bill of lading and Seller's commercial invoice. The Parties agree and acknowledge that time is of the essence with respect to the delivery obligations set forth in the Purchase Order. If Seller fails to meet the Delivery Dates as set forth in Purchase Order, Seller shall pay to Purchaser liquidated damages of 1% of the Purchase Order amount per calendar day up to a maximum of 10% of the Purchase Order value. In the event the maximum amount of liquidated damages is reached under a particular Purchase Order, Purchaser has the right to terminate the Purchase Order for cause. Seller and Purchaser agree and acknowledge that the liquidated damages are fair, not a penalty, and are in lieu of actual damages suffered by Purchaser. Purchaser shall be permitted to deduct any liquidated damages from any monies due or that may become due to Seller under any Purchase Order.

20. PACKING

Seller shall properly pack all Materials prior to shipping, including without limitation that Seller shall package the Materials supplied to ensure protection against environmental changes and damage during handling and transportation. No charge will be accepted by the Purchaser for packing, boxing, containers, reels or cartage unless otherwise specifically agreed in writing. All Material and packaging must be clearly marked and identified in accordance with Purchaser's instructions and as required by law.

21. CHANGES



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Notwithstanding anything else herein, Purchaser reserves the right to adjust quantities, the scope of Services, specifications/technical requirements, project schedule, Delivery Dates, and otherwise from time to time upon written notice to Seller (and upon any material change, the parties shall in good faith negotiate and agree upon an equitable adjustment in price).

22. RIGHT TO SET OFF

Notwithstanding the foregoing, in the event that Seller is in breach of any obligation under this Agreement, Purchaser shall be entitled to withhold payments, deemed by Purchaser to be proportionate to the actual impact of the breach, which would otherwise be due to Seller under any Purchase Order. All costs, losses, charges, damages or expense incurred by Purchaser, for which Purchaser determines Seller is liable under this Agreement or otherwise, may be deducted by Purchaser from any monies due or becoming due from Purchaser to Seller without notice.

23. OTHERS

Seller agrees to allow access to its premises and to provide technical or equipment assistance to Purchaser and/or (as requested by Purchaser) its customer to carry out audits or verifications of the quality, products and/or processes. Records pertaining to the Work being verified shall be made available by Seller to Purchaser and/or (as requested by Purchaser) its customer. This Purchase Order (including these Terms and Conditions) represent the entire agreement of the parties related to the subject matter hereof, and supersedes any and all prior or contemporaneous understandings, agreements or communications related thereto. The failure of Purchaser to insist on performance of any provision herein (or part thereof) shall not be construed as a waiver of such provision (or part thereof). In the event that any provision of this Purchase Order is held invalid or unenforceable, the affected provision shall be modified to make it valid and enforceable as close to the intent of the provision as possible (and such invalidity shall not affect the enforceability of the remaining terms of this Purchase Order).

24. RELATIONSHIP OF THE PARTIES

The relationship between the parties is that of independent contractors. Nothing contained in the Purchase Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Purchase Order.

25. NO THIRD-PARTY BENEFICIARIES

This Purchase Order is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these terms.

26. CONFIDENTIALITY

All non-public, confidential or proprietary information of the Purchaser, including, but not limited to, specifications, technical requirements, technical documentation, source/system documentation, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Purchaser to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form of media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Purchase Order is confidential, solely for the use of performing the Purchase Order and may not be disclosed or copied unless authorized by the



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Purchaser in writing. Upon Purchaser's request, Seller shall promptly return all documents and other materials received from Purchaser. Purchaser shall be entitled to injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.

27. TITLE AND RISK OF LOSS

Title to Materials passes to the Purchaser upon delivery of Material to the Purchaser's facility on the Delivery Date. Seller bears all risk of loss or damage to the Materials until delivery of goods to the Purchaser's facility on the Delivery Date. Title to Services passes to the Purchaser upon performance of such Services.

28. CUMULATIVE REMEDIES

The rights and remedies under this Purchase Order are cumulative and are in addition to and not in substitution for any other rights and remedies available at law.

29. COMPLIANCE WITH LAW

Seller is in compliance with all applicable laws, regulations and ordinances, including but not limited to the US Foreign Corrupt Practices Act and laws and regulations involving human rights such as child labor, forced labor, slavery, and human trafficking. Seller has and shall maintain in effect all licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Purchase Order.

30. TRADE COMPLIANCE

Seller will not export or transfer information, technical data, or materials provided by Purchaser, whether directly or indirectly, to any person or entity, even if such disclosure or transfer is otherwise permitted under this Purchase Order, without first complying strictly and fully with all export controls which may be imposed on such information, technical data or materials by the United States Government or any country or organization of nations with jurisdiction over the transaction. Seller further acknowledges and agrees that Purchaser may unilaterally terminate any obligations under this Purchase Order without penalty if Purchaser becomes aware of any violation of applicable export control laws and regulations. If Materials qualify for any free, preferential or other trade agreement, Seller shall provide Purchaser with requested related documentation. Seller agrees that it will promptly supply such information, requested by Purchaser for compliance with laws and regulations, including, but not limited to, the U.S Dodd-Frank Wall Street Reform and Consumer Protection Act (Conflicts Minerals), Foreign Account Tax Compliance Act (FATCA), and Registration, Evaluation, Authorization, and Restrictions of Chemicals (REACH). Purchaser may include additional language in the face of this Purchase Order related to export control and shipping and other documentation.