

IOXUS SUPPLIER TERMS AND CONDITIONS

DEFINITIONS:

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| a) Buyer | Ioxus |
| b) Seller | Seller is named in the Documentation |
| c) Documentation | Purchase Order, Confirmation or Acknowledgement, as applicable |
| d) Products | Materials being purchased as described in the Documentation |
| e) Agreement | Documentation these Terms and Conditions reference |

- 1. AGREEMENT (Purchase Order)** – This order is not binding on Buyer until accepted/ acknowledged by Seller. Acceptance should be executed on the acknowledgement copy that must be returned to Buyer. However, the supply of services or shipment of goods will also constitute Seller's acknowledgement and acceptance of the purchase order terms and conditions. This order contains the complete and final agreement between Buyer and Seller and no other agreement to modify the terms and conditions on Buyer unless made in writing and signed by the Buyer's authorized representative. In ordering and delivery of the Products, the parties may employ their standard forms, however, nothing in those forms shall be construed to modify or amend the terms of this Agreement. In the event of a conflict between this Agreement and either party's standard forms, this Agreement shall govern.
- 2. ACCEPTANCE** - Seller's acceptance of this order is unconditional and subject only to the terms and conditions in this order and any clauses or signed documents referenced in the order. Buyer expressly rejects any additional or different terms and conditions, including those which appear in any quotation, acceptance, shipping documentation, invoice or acknowledgment of Seller. Seller may not assert, as a defense to the enforcement of the conditions of this order, any conditions or limitations made in its acceptance. Upon Seller's acceptance, this order is the entire agreement between Buyer and Seller. Seller waives signed acceptance of the order by Buyer. Purchase orders may be transmitted to Seller electronically.
- 3. ASSIGNMENT** - This order may not be assigned or delegated, in whole or in part, without Buyer's prior written consent, including, but not limited to, the subcontracting of work to be performed or the transfer of tooling to third parties for the performance of work under this order.
- 4. CHANGES** - Buyer may at any time make changes in the drawings, designs or specifications, method of shipping or packing, and the place of delivery of any goods and/or work covered hereby, and Seller agrees to promptly make such changes. Any changes to this order shall be made in writing or by electronic communication.
- 5. CLAIMS ADJUSTMENT** – Buyer may at any time and without notice deduct or set-off claims by Seller for amounts due or that will become due from Buyer against any claims that Buyer has or may have arising between Buyer and Seller.
- 6. COMPLIANCE WITH LAWS** - Seller agrees to comply with all applicable federal, state and local laws, regulations and ordinances and to indemnify Buyer against all liability for Seller's failure so to comply. The foregoing obligation includes without limitation compliance with all statutory, regulatory and contractual requirements that may be applicable to environmental matters, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety and motor vehicle safety. In the event of violation of the above, Buyer has the right to immediately withdraw from or terminate all legal transactions existing with Seller and the right to cancel all negotiations. Seller is obliged to adhere to all laws and regulations applicable to both itself and the commercial relationship with Buyer. .
- 7. COMPLIANCE WITH TRADE LAWS AND REGULATIONS** – Seller will promptly notify Buyer in writing of material or components used by Seller in filling this order that Seller purchases in a country other than the country in which the goods are delivered to Buyer. Seller will furnish Buyer with any documentation necessary to establish the country of origin, appropriate value for Customs Clearance, Buyer Part Number and Part Description, as well as documentation necessary for Customer Clearance and other Government Agency reporting. Seller will advise Buyer of any material imported into the country of origin and any duty included in the purchase price of the goods. Seller will provide Buyer all documentation and information required by law or regulation to determine the minimum duty to be paid upon the importation of goods into any country or to obtain any refunds or drawbacks of duties paid. Seller warrants that the information regarding the import or export of goods supplied to Buyer is true and correct and that all sales covered by this order will be made at not less than fair value under the anti-dumping laws of the countries to which the goods are exported.
- 8. COUNTERFEIT PARTS**

Definitions for Electronic Part Purchases

Suspect Part – A part in which there is an indication that it may have been misrepresented by the Supplier or Manufacturer and may meet the definition of a Counterfeit Part.

Counterfeit Part – Parts that contains unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used part represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics. The Counterfeit Parts include but are not limited to:

- Parts which do not contain the proper internal construction (die, manufacturing, wire bonding, etc) consistent with the Bill of Material provided;
- Used, refurbished, or reclaimed parts represented as new product;
- Parts with a different package style, type, or surface plating/finish than the required or order product;
- Parts not successfully completing the full production and/or test flow of the Original Equipment Manufacturer (OEM) that are represented as completed product;
- Parts sold or delivered with modified labeling or markings intended to misrepresent the form, fit, function, or grade of the intended product.

Authorized Supplier – OEM authorized sources of supply for a specific part by Ioxus.

Authorized Distributor – A distributor which is authorized by the Original Component/Equipment Manufacturer (OCM/OEM) to distribute product in accordance with the terms of an OCM contractual agreement.

Electronic Part Purchases:

- BUYER will only obtain parts or work from an OCM/OEM, Authorized Distributor, or Authorized Supplier. (These companies are reviewed and approved by the Original Component Manufacturer; thereby, providing approvals to BUYER).
 - SELLER shall not deliver Counterfeit Parts to Ioxus under this agreement.
 - SELLER shall only purchase components or parts using the applicable drawing, specification, Bill of Material description, or other information as authorized by BUYER. BUYER will only accept parts from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM) or through Authorized Distributors or Authorized Suppliers as approved by BUYER. Independent distributors, brokers, or other secondary sources shall not be used. It is the SELLER's responsibility to protect the integrity of this and any procurement activity with BUYER.
 - SELLER may use another source only if (i) the foregoing sources are unavailable, AND (ii) SELLER obtains the advance written approval of Ioxus.
 - SELLER shall maintain counterfeit risk mitigation processes in accordance with industry recognized standards referenced in SAE AS5553, "Counterfeit Electrical, Electronic, and Electromechanical (EEE) Parts; Avoidance, Detection, Mitigation, and Disposition". SELLER may be requested by Ioxus to provide proof of conduct of such processes.
 - SELLER shall immediately notify Ioxus with the pertinent facts if SELLER becomes aware that it has delivered Counterfeit Parts. When requested by BUYER, SELLER shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM. SELLER, at its expense, shall provide reasonable cooperation to Ioxus in conducting any investigation regarding the delivery of Counterfeit Parts under this agreement.
 - In the event that product delivered under this agreement constitutes or includes Counterfeit Parts, SELLER shall, at its expense, promptly replace such Counterfeit Parts with genuine parts conforming to the requirements of this agreement. BUYER also has the right to reject the parts, receive full reimbursement, and cancel the order. SELLER shall be liable for all costs relating to the removal and replacement of Counterfeit Parts, including without limitation Ioxus' costs of removing Counterfeit Parts, of installing replacement parts and of any testing necessitated by the reinstallation of parts after Counterfeit Parts have been exchanged. The remedies contained in this paragraph are in addition to any remedies BUYER may have under other provisions of our agreement.
 - In addition to any remedies allowed by section 22 of this document, in the event that the Counterfeit parts provided to Ioxus are incorporated into an assembly, SELLER shall be liable for replacement of the entire assembly. Rework of electronic assemblies to replace Counterfeit Parts is not authorized unless SELLER obtains the advance written approval of Ioxus.
 - SELLER shall include all of the above items in their subcontracts for delivery of items that will be included in or furnished to BUYER.
- 9 **ENFORCEMENT; SEVERABILITY** - Buyer's failure to enforce any provisions of this purchase order or any other right or option available to it will not be construed as a waiver of such provisions, rights, or options or in any way to affect the validity of this purchase order. In the event that any one or more of the provisions are for any reason held invalid or unenforceable in any respect, that does not affect any other provision of this purchase order and the remaining provisions will remain in full force and effect.
- 10 **GOVERNING LAW; JURISDICTION** - This order is to be governed by and construed under the laws of the State of Buyer's business address as shown on this order. As permitted by Article 6 of the Convention on Contracts for the International Sale of Goods, Buyer and Seller agree that this purchase order is not governed by the Convention on Contracts for the International Sale of Goods. Any action or proceedings by Buyer against Seller may be brought by Buyer in any court having jurisdiction over Seller or, at Buyer's option, in a court having jurisdiction over Buyer's location, in which event Seller consents to jurisdiction and service of process in accordance with applicable procedures. Any actions or proceedings by Seller against Buyer may be brought by Seller only in a court having jurisdiction over the location of Buyer from which this contract is issued.
- 11 **HAZARDOUS SUBSTANCES; LABELS** - Seller will notify Buyer in writing upon receipt of this purchase order if the products are subject to laws or regulations relating to hazardous or toxic substances or products governed by the Toxic Substances Control Act hazardous waste disposal, or to any other environmental or safety and health regulations. Seller will furnish all appropriate shipping certification and instructions for shipping, safety, handling, exposure, and disposal (including without limitation material data safety sheets) in a form understandable by Buyer's non-technical personnel and in enough detail to identify all action that the user must take concerning the material. All labels must conform to the ANSI Z535 standard for product safety labels or another standard acceptable to Buyer.
- 12 **INDEMNITY; WORK ON BUYER'S PREMISES** - SELLER AGREES TO INDEMNIFY AND SAVE HARMLESS BUYER, ITS AGENTS AND CUSTOMERS AND THE USERS OF ANY GOODS OR SERVICES COVERED BY THIS ORDER FROM ANY AND ALL LIABILITY, LOSS, DAMAGE, OR EXPENSE WHICH MAY BE INCURRED BY ANY OF THEM, INCLUDING WITHOUT LIMITATION ATTORNEY FEES AND COSTS, ARISING OUT OF, OR IN CONNECTION WITH, OR RELATED TO ANY CLAIM OF DEFECT IN THE DESIGN, MATERIALS, MANUFACTURE OR SALE OF SUCH GOODS OR SERVICES, OR IN ANY WAY RELATED TO SELLER'S PERFORMANCE OF ITS OBLIGATIONS UNDER THIS ORDER. If Seller performs any work on Buyer's premises or uses Buyer's property either on or off Buyer's premises, Seller shall take all necessary precautions to prevent the occurrence of any injury to person or property during the performance of such work. Seller shall indemnify and protect Buyer against all liabilities, claims, or demands for injuries or damage to any person or property arising out of the performance of work on or use of Buyer's property, including without limitation attorney fees and costs.
- 13 **INSURANCE** - Seller will provide worker's compensation, comprehensive general liability, automobile, public liability, and property damage insurance in amounts and coverages sufficient to cover all claims hereunder. Such policies will name Buyer as an additional insured and contain endorsements stating that the policies are primary and not excess over or contributory with any other valid, applicable, and collectible insurance in force for Buyer. Buyer may require Seller to furnish evidence of the foregoing insurance but failure to comply with these insurance requirements will not relieve Seller of its liability and obligation under this clause.
- 14 **INTELLECTUAL PROPERTY** - Seller warrants that the goods or services sold will not infringe any U.S. or foreign patent and/or any third party intellectual property right, and Seller will, at its expense, defend, indemnify and save Buyer harmless from and against any loss, damage, expense or liability, including attorney fees and costs, that results from any infringement or alleged infringement. Seller expressly waives any claim against Buyer that an infringement arose out of compliance with Buyer's specification. If any of the goods or services furnished to Buyer become the subject of an alleged infringement of a patent or third party intellectual property right, Seller shall, at its expense, either procure for Buyer the right to continue using the goods or services; replace or modify them so that they are non-infringing; or refund Buyer's full purchase

price. Seller agrees that Buyer or Buyer's subcontractor has the right to repair, reconstruct, or rebuild goods delivered under this contract without payment of any royalty to Seller. Seller agrees that parts manufactured based on Buyer's drawings and/or specifications may not be used for Seller's own use or sold to third parties without Buyer's express written authorization

- 15 **INVOICING; PAYMENT** – Seller agrees to provide a complete and accurate electronic invoice to Buyer after delivery of the goods or the performance of services, and to accept payment in cash or its equivalent. Buyer's Purchase Order number must be on each invoice submitted to Buyer. Time for payment shall not begin to run until a proper invoice is received. Buyer may withhold payment until proof of the absence of any liens on the goods is given to Buyer's satisfaction.
- 16 **LABOR DISPUTES** - Seller will notify Buyer immediately of any actual or potential labor dispute that is delaying or threatens to delay timely performance of this order. Seller will notify Buyer in writing 6 months in advance of the expiration of any current labor contract. At least 10 days before a labor contract expires, Seller will establish, at its expense, a 40 working day supply of goods in a neutral warehouse site to be located in the United States at least fifty 50 miles from Seller's manufacturing locations.
- 17 **PACKING; MARKING; SHIPPING** - Shipments shall be routed in accordance with Buyer's instructions, and Seller agrees to reimburse Buyer for all expenses incurred by Buyer as a result of improper packing, marking or routing. Buyer's purchase order and line number, part number, will appear on each package and bill of lading. Seller shall transmit accurate advanced shipment notices not later than thirty (30) minutes after shipment leaves the Seller's facility. Seller will promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer's instructions. Buyer may specify the carrier and/or method of transportation and Seller will process shipping documents and route shipments of the goods from the FOB point accordingly. Goods for two or more of Buyer's locations will be shipped in separate packages for the different locations. Buyer may from time to time change shipping schedules previously furnished Seller, or direct temporary suspension of scheduled shipments. Buyer's count will be accepted as final on all shipments. Shipments in excess of those authorized may be returned to Seller, and Seller shall pay the transportation charges both ways for such shipments. Seller is responsible for the goods until delivery at the designated FOB point. Unless otherwise expressly agreed to in writing by Buyer, no charge shall be made for containers, crating, boxing, bundling, dunnage, drayage, or storage. Buyer will not be responsible for delays in the payment of invoices if these requirements are not met.
- 18 **PERFORMANCE; DELAYS** - Timely delivery is essential; however, neither party shall be liable to the other for any delay or failure to perform where such delay or failure is caused by events beyond the reasonable control of the affected party. The foregoing shall be subject to the affected party giving reasonable notice to the other party. When deliveries are specified to be in accordance with Buyer's written releases, Seller will not fabricate or assemble any goods except to the extent authorized by the written releases or to the minimum delivery quantities in this purchase order. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price for goods or services covered by this contract. Where quantities and/or delivery schedules are not specified, Seller shall deliver goods in such quantities and times as Buyer may direct in subsequent releases. Seller agrees not to give any other customer of Seller any priority over Buyer in the allocation of Seller's production. In the event of delay or failure to perform by Seller, Buyer may give written notice to Seller of either termination of the purchase order or rejection of any partial or future performance. All damages suffered by Buyer and any premium transportation or other costs required to meet the specified delivery schedule will be at the expense of Seller.
- 19 **PUBLICITY** - The parties may not use their business relationship for advertising purposes unless prior written consent of the other party is provided. Seller will not place its or any third party's trademark or designation on a part if it bears a trademark of Buyer or its affiliate, an identifying mark specified by Buyer, or if the part is based on Buyer's design, Seller will sell such marked parts only to Buyer and will not sell them to a third party without Buyer's prior written consent.
- 20 **QUALITY – STANDARD REQUIREMENTS FOR SUPPLIERS**
- Scope of Requirements: Supplier shall comply with all Purchase Order requirements, including: 1) Terms and Conditions; 2) These Clauses. Supplier shall process any corrective action requests submitted to them.
 - Documents: Supplier is responsible to obtain all referenced documents. Documents not provided with the Purchase Order are available upon request from BUYER Purchasing.
 - Quality System: Supplier shall maintain an effective Quality System (e.g.- ISO-9001).
 - Changes: Supplier shall make no changes to BUYER specified materials, processes, designs, tooling, manufacturing locations, or selection of sub-tier suppliers of Special Processes without prior notification to IOXUS Purchasing and-or Quality. (Special processes include Soldering, Welding, Brazing, Plating, Heat-Treating, Potting, Wire-wrapping, and Bonding.) This requirement specifically includes changes made for RoHS compliance.
 - Source Inspection: Supplier agrees that BUYER, BUYER's customers, and applicable regulatory authorities have the right to inspect any BUYER's order at the Supplier's facility upon request.
 - Material Reports: Accompanying each lot, Suppliers of items made from a single material and suppliers of raw materials shall submit a material report listing physical and chemical properties of the lot(s) in English. If more than one material comprises the procured item, the supplier shall possess and maintain material reports for each material for a period of 10 years with copies provided to BUYER upon request. The material report shall specify chemical and physical properties in accordance with BUYER imposed requirements. Exceptions: 1) For materials that the supplier considers proprietary, provide instead a Certificate of Conformance that specifies a traceable lot/batch number; 2) material supplied by BUYER; 3) Items/materials that are purchased to the supplier's catalog or to supplier's specific part number. All Specialty metals shall be compliant to DFARS clause 252.225-7014 Alt 1 and have the country of origin (melting) specified on the material report.
 - Certificate of Conformance: Accompanying each lot, Supplier is to submit a signed Certificate of Conformance stating adherence to all order requirements.

- **Drop Ship Suppliers:** If contract stipulates that shipment is to be made directly to BUYER's customer, Supplier shall submit to BUYER's Quality the inspection plan to be applied and an approved First Article Report for each part number to be shipped. Supplier shall receive written approval from BUYER Purchasing and-or Quality prior to making Drop Shipments. Supplier shall retain inspection records.
- **Molding and Casting Suppliers:** Supplier shall submit a First Article Report whenever any of the following events first occurs; 1) a new or revised part is to be produced; 2) a new or modified tool or cavity is to be used; or 3) the process or material has changed. A separate First Article is required for each cavity. In addition, rubber compound suppliers shall submit a cured, representative test specimen with each lot shipped; the specimen's durometer and tensile strength values shall be recorded in the accompanying Material Report.
- **First Articles:** Whenever a First Article is required, Suppliers shall provide a production part and a completed First Article Inspection report in English of actual measurement data for each characteristic which the Supplier generated. Material Test Reports for all materials in an item are to be included in the First Article report. If the drawing refers to a lower level drawing whose characteristics were likewise generated by the Supplier, a First Article shall also be submitted for that part. All samples and reports shall be sent to BUYER Quality. Production shall not start until written approval is received from BUYER.
- **Records:** Supplier shall retain required records in good condition for at least seven (7) years unless otherwise specified. Records shall be provided to BUYER upon request. Supplier is advised that the recording of false or fraudulent statements or entries in any record created for BUYER may be punished as a felony under statutes including U.S. federal law, Title 18, Chapter 47.
- **Sub-tier Suppliers:** Suppliers shall flow down to sub-tier suppliers all applicable requirements including Key Characteristics when defined.
- **Perishable Materials:** Suppliers shall ensure that perishable materials, if employed, are not used beyond the recommended expiration dates. Suppliers shall also furnish date of manufacture for each lot as applicable.
- **Soldering Requirements:** All solder alloys used shall be in accordance with IPC J-STD-006. All terminations shall meet the soldering requirements of IPC J-STD-002. Any solder containing tin (Sn) shall contain at least 3% lead (Pb) unless specifically required by the BUYER Purchase Order requirements.
- **ITAR Restrictions:** Orders relayed may involve information and/or items that are subject to the International Traffic in Arm Regulations (ITAR) and may not be released to "Foreign Persons" inside or outside the United States of America without the proper export authority.
- **Ozone Depleting Substances (ODS):** Class I or II Ozone Depleting Substances, as listed in 40 CFR Part 82 Appendices A & B, are prohibited from directly contacting IOXUS parts in the manufacturing process and shall not be contained in products sold to IOXUS.
- **Mercury Prohibition:** The intentional incorporation of mercury (Hg) or mercury containing compounds exceeding 0.001% by weight per homogenous material into products sold to IOXUS is prohibited.
- **Nonconforming Material:** Supplier shall not ship Nonconforming material without authorization. If supplier determines Nonconforming material has shipped, they must notify IOXUS Co. A Supplier cannot disposition Nonconforming material for repair or 'use as is' without authorization.
- **Counterfeit Materials:** The seller will ensure that only new and authentic materials are used in products delivered to IOXUS. The seller may only purchase parts directly from the Original Component Manufactures (OCMs), OCM franchised distributors, or authorized aftermarket manufactures. Use of product that was not provided by these sources is not authorized unless first approved in writing by IOXUS. The seller must present compelling support for its request and include in its request all actions to ensure the parts procured are authentic and conforming parts. This requirement must be flowed down to all sub-tier suppliers as well. See Section 8 of this document for additional requirements.
- **Toxic Substances Control Act (TSCA):**
 - Seller shall ensure for every chemical substance or mixture or applicable article supplied: The chemical constituent(s) of the product(s) is listed by the Toxic Substances Control Act (TSCA) Inventory and is not offered for entry in violation of TSCA or any applicable rule or order under TSCA; or the chemical constituent(s) of the product(s) is not subject to TSCA
- **Restriction of Hazardous Substances (RoHS):**
 - The supplier shall ensure that items sent to BUYER comply with RoHS requirements in that the listed chemicals/compounds do not exceed limits specified:

MATERIALS ^{(1) (2)}	LIMITS
Pb – Lead	< 0.1%
Cd – Cadmium	< 0.01%
Hg – Mercury	< 0.1%
CrVI – Hexavalent Chromium	< 0.1%
PBB – Polybrominated Biphenyls	< 0.1%
PBDE – Polybrominated Diphenylethers	< 0.1%

(1) Maximum concentration value (by weight) in any homogenous material

(2) These values were adopted from the Commission Decision 2005 / 618 / EC – 18th August 2005

- 21 **QUALITY/INSPECTION** - Buyer may inspect and evaluate all goods (including all tooling and material used in their manufacture), and all services at times and places designated by Buyer. Seller will provide and maintain a quality assurance system approved by Buyer and which meets Buyer's written specifications. Buyer has the right to enter Seller's facility at reasonable times to inspect the facility, goods and materials relating to this purchase order, and any inspection will not constitute acceptance or affect Buyer's rights.
- 21.1 REJECTS** – Seller is responsible for the quality of parts they provide and any costs associated with rejected parts. In addition, a \$300 processing fee may be charged for any quality reject notification that is issued by Buyer. Buyer will issue a Vender Reject Material Authorization (VRMA) which will be used to track rejected materials back to Seller. Seller will provide replacement parts or a credit to the supplier for the rejected materials. Seller will respond back to the VRMA notification within two (2) business days. If a response is not received within two (2) business days, rejected materials will either be scrapped and debited to the supplier or shipped freight collect to the supplier. For rejected materials with a value of less than \$100, Buyer may scrap parts at the time of the reject unless prior arrangements are made.
- 22 **REMEDIES; WAIVER; APPROVAL** - Should any goods fail to conform to the warranties provided by Seller, Buyer shall notify Seller and Seller shall, if requested by Buyer, reimburse Buyer for any incidental and consequential damages caused by the nonconforming goods, including costs, expenses and losses incurred by Buyer (a) in inspecting, sorting, repairing or replacing nonconforming goods; (b) resulting from production interruptions, (c) conducting recall campaigns or other corrective service actions, and (d) claims for personal injury (including death) or property damage caused by such nonconforming goods. No waiver of any breach of any provision of this order will constitute a waiver of any other breach or a waiver of such provision. Buyer's approval of documents shall not relieve Seller from complying with any requirements of this order. Seller acknowledges that its goods are unique and not readily available to Buyer from any other source. Any interruption in supply to Buyer will diminish the value of Buyer's business, disrupt its relationship with its customers, and cause irreparable harm. Accordingly, Seller agrees that if Seller breaches its obligations hereunder, Buyer shall be entitled to all available equitable and legal remedies, including without limitation immediate injunctive relief.
- 23 **TAXES** - Buyer will not pay Seller any state or local sales, use, or similar tax unless Seller is required by law to collect such taxes from Buyer. Federal excise taxes charged to Buyer will be separately stated or indicated as being included in the unit price. Seller agrees that no tax for which an exemption exists will be included in the price and will not be subsequently charged. Seller agrees to pay any and all personal property and/or ad valorem taxes assessed or levied against any property placed with Seller by Buyer for the purpose of fulfilling this purchase order.
- 24 **TERMINATION; CANCELLATION** - If Seller (i) fails to deliver goods or perform services at the time specified, or (ii) fails to perform or breaches any of the terms of this agreement, including Seller's warranties, and does not cure such breach within a period of 10 days after receiving written notice from Buyer specifying the breach, or (iii) becomes insolvent, makes an assignment in favor of creditors, or enters bankruptcy or dissolution procedures, Buyer may cancel the whole or any part of this order without any liability, except for payment due for goods and services delivered and accepted. Upon such termination and written notice to Seller, Buyer will have the right to take title to and possession of all or any part of such work performed by Seller under this order. In addition, Buyer at its option may terminate all or a part of the work under this purchase order at any time, and Buyer shall have no liability with respect to goods or components procured, or work done, or supplies partially fabricated, in excess of authority contained in this order or in any shipment release issued to Seller pursuant hereto. In no event shall Buyer be liable for prospective or anticipated profits by reason of any termination. All terms, conditions and provisions of this purchase order shall survive cancellation or termination of all or any portion hereof.
- 25 **TOOLS AND DIES** - All tools, dies, or other material furnished by Buyer to Seller, or which are specifically paid for by Buyer, and any replacement thereof, or anything affixed or attached thereto, shall be and remain Buyer's personal property. Such property, if it can reasonably be done, shall be plainly marked or otherwise adequately identified by Seller as property of Buyer, and shall be safely stored separate and apart from Seller's property. Seller shall not substitute any property for such and shall not use such property except for filling Buyer's order. While in Seller's custody or control, such property shall be held at Seller's risk, maintained in accordance with good commercial practice, and subject to removal at Buyer's request. Except for reasonable wear and tear, Supplier shall be responsible for, and shall promptly notify Buyer of, any loss or damage. Seller will keep such tooling or property in its possession and/or control fully covered by insurance, free of liens and encumbrances and will replace such tooling or property when lost, damaged or destroyed. Buyer shall have the right to enter Seller's premises at all reasonable times to inspect such property and Seller's records with respect thereto. All requests for reimbursement for tooling costs are subject to review, approval and audit by Buyer.
- 26 **USE AND PROTECTION OF INFORMATION** - The specifications, drawings, designs, manufacturing data and other information transmitted to Seller by Buyer in connection with the performance of this order are the property of Buyer and may be covered by one or more patents, patent applications or copyrights. Seller will handle all of this information in such a manner that it is kept confidential and is not used for any purpose detrimental to the interests of Buyer. Seller will secure written approval from Buyer before any of this information is released to anyone other than those requiring the information for the performance of work under this purchase order. The information will be returned promptly to Buyer upon request.
- 27 **WARRANTY** - Seller warrants that all goods and services covered by this order conform to the specifications, drawings, samples or other description upon which this order is based, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect. This warranty runs to Buyer, its customers and users of its products. Seller agrees to promptly replace or correct defects of any goods or services not conforming to the foregoing warranty, without expense to Buyer, when notified of such nonconformity by Buyer. If Seller fails to promptly correct defects in or replace nonconforming goods, Buyer may make such corrections or replace such goods and services at Seller's expense or return them for credit or refund. In addition to other remedies, Buyer may reject nonconforming goods and return them to Seller at Seller's expense. Nonconforming goods may not be replaced without Buyer's written authorization.