

**Robert Bosch LLC, Bosch Manufacturing Solutions, a division of Robert Bosch LLC.**  
**North American-Terms and Conditions of Sale**

**October 1, 2023**

Sales of goods, equipment, and/or services by Seller (as defined below) to Buyer (as defined below) are expressly subject to and conditioned upon the terms and conditions contained in these North American Terms & Conditions of Sale, which include any provisions made available by Seller via a hyperlink herein, and any terms set forth in the Seller's Quotation, Statement of Work, or Purchase Order, as defined below, which collectively constitute a sales agreement entered into between Seller and Buyer (collectively, "Standard Terms").

**ARTICLE ONE – DEFINITIONS**

- 1.1 Affiliate. "Affiliate" means an entity that directly or indirectly controls, is controlled by or is under common control with a party and as used herein, "control", "controls" or "controlled" means: (a) fifty percent (50%) or more ownership or beneficial interest of income or capital of such entity; (b) ownership of at least fifty percent (50%) of the voting power or voting equity; or (c) the ability to otherwise direct or share management policies of such entity.
- 1.2 Buyer. "Buyer" means the legal entity, firm, or any-one ordering goods and/or services from Seller.
- 1.3 Buyer's Data. "Buyer Data" means all data, information or other content and materials (a) transmitted or provided to Seller by Buyer or a third party on behalf of Buyer, or (b) uploaded by or for Buyer via the Item and processed by or for Buyer using the Services.
- 1.4 Change Order. "Change Order" means a document which is intended to make changes in the character or quantity of the items to be furnished hereunder, including changes in Plans and Specifications, instructions for work, methods of shipment or pack-aging, or schedules of or places for delivery of the items.
- 1.5 Confidential Information. "Confidential Information" means any and all written or oral information of either the Seller or Buyer directly or indirectly transmitted to the other party hereunder and which (a) is marked "Confidential" or "Proprietary" at the time of its transmission to the receiving party, or (b) given the nature of the information or the circumstances surrounding its disclosure, reasonably should be deemed confidential. Confidential Information includes, but is not limited to, design and development information, whether conceptual or not or patentable or not, drawings, specifications, graphs, as well as engineering, manufacturing, business and marketing plans and processes, strategies and financial studies and analysis.
- 1.6 Equipment. "Equipment" means the goods, which are described in Seller's Quotation.
- 1.7 Hazardous Materials. "Hazardous Materials" means any substance that under applicable law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, lead, radioactive materials, asbestos in any form

that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "Toxic pollutants," or any words of similar import pursuant to applicable law, or (iii) any other chemical, material, substance or waste, exposure to which is prohibited, limited, or regulated by any governmental instrumentality, or which may be the subject of liability for damages, costs or remediation.

- 1.8 Items. "Items" means all Equipment, conversion parts, spare parts, wear parts, other components, tools, and other goods, which Seller sells to Buyer.
- 1.9 Law(s) means (a) any and all laws, statutes, regulations, ordinances, or subordinate legislation in force from time to time to which a party is subject; (b) the common law; (c) any and all court orders, judgments, or decrees that are binding on a party; and (d) any and all directives, policies, rules, or orders that are binding on a Party and that is made or given by a regulator, or other government or government agency, of, in the case of items (a) - (d) above, any country, or other national, federal, commonwealth, state, provincial, or local jurisdiction.
- 1.10 Personal Data. "Personal Data" means any information relating to (a) any identified or identifiable natural person, and, (b) identified or identifiable legal entity (where such information is protected similarly as personal data or personally identifiable information under applicable data privacy Laws), where for each (a) or (b), such data is Buyer's Data.
- 1.11 Plans and Specifications. "Plans and Specifications" means all drawings and other written and pictorial descriptions of the Equipment, whether prepared by or at the direction or on behalf of Buyer, Seller, or any other person, intended to fit and describe the size, quality and character of the Equipment, its systems, materials, and other appropriate elements.
- 1.12 Premises. "Premises" means the location designated by Buyer at which Equipment is to be installed or Services are to be performed.
- 1.13 Purchase Order. "Purchase Order" means a purchase order issued by Buyer on Buyer's standard purchase order form that specifies the Item or Service and which is confirmed in writing by Seller in accordance with these Standard Terms.
- 1.14 Seller. "Seller" means Robert Bosch LLC, Bosch Manufacturing Solutions, a division of Robert Bosch LLC.
- 1.15 Seller's Quotation. "Seller's Quotation" means the written quotation or proposal issued by Seller to Buyer in response to Buyer's request for a bid, quotation, proposal, or similar communication.
- 1.16 Services. "Services" means all acts, work, labor, and other personal services (including, without limitation, professional services, training and supervision, and transportation of Equipment) done by or at the direction or on behalf of Seller for the benefit of Buyer.
- 1.17 Software. "Software" means the applications, methodologies

or programs developed by Seller or licensed to Seller by a third-party provider, available in source code, redistributable libraries, or object code formats, and via various means of delivery, and all new versions, updates, revisions, improvements, and modifications of any of the foregoing, that may be provided by Seller to Buyer and as identified in the applicable quotation, Statement of Work or Purchase Order. For the sake of clarity, Software may perform specific functions related to accessing, enabling, developing, networking, and maintaining Seller's Items and/or Services and may include standalone software, firmware and software tools provided by Seller to Buyer.

- 1.18 Software Updates. "Software Updates" means any Software release intended to fix or correct known problems and which may provide new functionality or features.
- 1.19 Software Upgrades. "Software Upgrades" means any new version of the Software, which may include revisions, improvements and/or modifications.
- 1.20 Statement of Work. "Statement of Work" means a document that specifies in writing the Services or Work that Buyer may purchase under these Standard Terms, and which may include, but is not limited to, any Plan and Specifications, description of Services or work, service level agreements and/or acceptance criteria that are applicable to the Services, and which document has been mutually agreed by both Parties in writing.
- 1.21 Work. "Work" means Seller's Equipment, Services, or Items provided to Buyer.

## ARTICLE TWO – CONTRACT FORMATION AND ADMINISTRATION

- 2.1 Contract Formation. The terms and conditions contained in these Standard Terms apply to any Purchase Order placed by Buyer with Seller with respect to the Items and/or Service. Seller's acceptance of any offer or Purchase Order from Buyer is expressly conditioned on Buyer's consent to these Standard Terms, which are part of and incorporated in any Purchase Order, irrespective of whether the Purchase Order references these Standard Terms. Any additional or different terms or conditions, or warranties, whether in a Purchase Order or another communication, understanding, or agreement, that in any way purport to modify these Standard Terms are expressly objected to and rejected and will not be binding on Seller, unless expressly agreed to in writing signed by an authorized representative of Seller; neither Seller's subsequent lack of objection to any terms, nor the delivery of the Items, shall constitute an agreement by Seller to any such terms. Buyer is hereby notified of Seller's express rejection of any terms inconsistent with Standard Terms or to any other terms proposed by Buyer. Trade custom, trade usage and past performance are superseded by these Standard Terms and shall not be used to interpret these Standard Terms. Buyer's issuance of a Purchase Order or acceptance of, or payment for, the Items when delivered and/or Services when provided will be deemed conclusive evidence of and constitutes Buyer's acceptance of and assent to these Standard Terms. Buyer's acceptance of any offer (or counter-offer) by Seller is limited to these Standard Terms. Seller may reject a Purchase Order in whole or in part for any lawful reason in its sole discretion. A Purchase Order will be deemed accepted by Seller upon Seller issuing a written order confirmation ("Order Acknowledgment"). No Purchase Order will be binding for Seller upon until accepted by Seller. If Seller and Buyer have explicitly agreed in writing via a signed agreement, to terms and conditions applicable to the sale of Items in exception or addition to these Standard Terms, then those terms and

conditions ("Independent Agreement") will apply to the sale of Items. In the event of a conflict, (a) the commercial terms of an acknowledged Purchase Order will take precedence over any Independent Agreement, Quotation, or these Standard Terms; (b) the terms of an Independent Agreement shall take precedence over any Quotation or these Standard Terms; and (c) any Quotation shall take precedence over these Standard Terms.

- 2.2 Change Orders. Change Orders may be submitted by either Buyer or Seller. All Change Orders must be in writing and signed by a duly authorized representative of both Buyer and Seller. If any Change Order results in an increase (or decrease) in Seller's cost or in the time for performance, Seller shall be entitled to an equitable adjustment in the price or time for performance of the Work covered by these Standard Terms shall be equitably adjusted based upon the actual difference in expense or time necessary for performance of the Work, together with a reasonable allocation of Seller's overhead and profit. Seller shall provide an estimate of any anticipated price increase or delay in performance time within thirty (30) days of the date of receipt of Buyer's Change Order. However, notwithstanding the foregoing, Seller shall be under no obligation to proceed with major changes in the original scope of Work without Buyer's written Change Order, and an equitable adjustment in price and/or time to complete the scope of Work.
- 2.3 Entire Agreement. These Standard Terms and all other agreements incorporating these Standard Terms constitute the sole and entire agreement under which Seller will sell Items and provide Services. These Standard Terms and all other agreements incorporating these Standard Terms constitute the entire agreement between Seller and Buyer with respect to the matters contained herein/therein and supersede all prior or contemporaneous oral or written agreements, representations and/or communications. These Standard Terms may be modified only by an amendment issued and signed by an authorized representative of Seller.

## ARTICLE THREE – SHIPMENT/PERFORMANCE

- 3.1 Packaging, Labeling and Shipping. Seller will package and load the Equipment, at Buyer's expense, so as to avoid any damage in transit, identify the Equipment by displaying Buyer's name, address and Purchase Order number on each unit or package shipped. A packing list in English will be enclosed in all shipments showing Buyer's Purchase Order number and the exact quantity and description of Equipment shipped.
- 3.2 Notice of Shipment. Seller shall use good faith efforts to provide Buyer at least one (1) day advance written notice of the dates upon which each shipment will be made. Each notice shall also specify the mode of each shipment (rail, motor carrier, etc.), whether the shipment requires a load permit, and the maximum total value, weight, dimensions and point of origin of each shipment. Upon request by Buyer, Buyer also shall be contacted by the driver(s) of the load(s) transported by truck twenty-four (24) hours prior to on-site delivery in order to secure proper unloading equipment. This requirement must be specifically stated on the driver's bill of lading.
- 3.3 Delivery Dates. All delivery dates are estimates only, and subject to prompt receipt of all necessary information from Buyer that is requested from Seller. Seller's only obligation with respect to delivery dates is to make reasonable efforts to meet such delivery dates. Unless otherwise agreed upon between the parties in writing or specified in the Purchase Order, all shipments shall be FCA (Incoterm 2020) at Seller's plants/warehouses. Seller may deliver Equipment or other Items in advance of the delivery schedule. If, for whatever reason, Seller experiences Items shortages, Seller may hold

or allocate Items among its customers as Seller considers appropriate. The delivery deadline is deemed to be met, if the delivery Item has left the Seller's plant or readiness for consignment has been reported, by the date of the delivery deadline.

- 3.4 Risk of loss and title. Risk of loss and title to the Items transfer upon completion of delivery of the Items per the applicable delivery term specified in Section 3.3 above. Notwithstanding the applicable delivery terms, Seller will not be liable for any delays, breakage, loss, or damage after having made delivery to the first transportation carrier. All claims for loss or damage in transit are to be made by Buyer directly to the transportation carrier and the appropriate insurance carrier, if any, for such shipment. No deductions of any kind from the invoice amount shall be made.
- 3.5 Force Majeure. Neither Buyer nor Seller shall be liable to the other for default or delay in the performance of their respective obligations under these Standard Terms when and to the extent that default or delay is caused by the existence, happening or continuance of any contingency preventing or substantially interrupting or curtailing their respective business including, but not limited to, fire, flood, theft, explosion, accident, riot, war, acts or threatened acts of terrorism, epidemic, pandemic, order, act, authority, regulation or request of or threat thereof by any federal, state, local or municipal unit of government or department or agency thereof, judicial action, lock-out, strike, labor dispute, industrial disturbance, shortage or failure of labor, fuel, power, components, facilities or raw materials, delay of suppliers, act of or omission to act by the other party hereto or the respective employees, agents, contractors, and suppliers of the other party hereto, restriction or lack of transportation facilities, failure or delay in transportation, act of God, adverse weather conditions not reasonably anticipated, unavoidable casualties, breakage or accident to machinery or equipment, involuntary shutdown of facilities, or any other cause beyond the reasonable control of Buyer or Seller, provided, however, that Buyer and Seller shall use their respective best efforts to overcome and minimize the effect of such events. The excused party is obligated to promptly resume performance in accordance with these Standard Terms after any such force majeure event no longer exists.
- 3.6 Progress Reports. Seller shall, upon request by Buyer, provide Buyer with written reports on the status of Seller's Work under these Standard Terms.
- 3.7 Project Schedule and Price Adjustments. Seller shall be entitled to equitable adjustments of the time to perform and/or price, including but not limited to, any reasonable increased costs of labor, supervision, equipment or materials, and reasonable overhead and profit, for any modification of the project schedule differing from the bid schedule, and for any other delays, acceleration, out-of-sequence work and schedule changes beyond its reasonable control, including but not limited to those caused by labor unrest, fires, floods, acts of nature or government, wars, embargos, vendor priorities and allocations, transportation delays, suspension of work for non-payment or as ordered by Buyer, or other delays caused or requested by Buyer or others. A change in the price of an Item of more than five percent (5%) between the date of Seller's quotation and the date of Seller's procurement or installation shall warrant an equitable adjustment in the price, which the parties agree to negotiate in good faith. Seller may impose upon Buyer reasonable charges for storage for any Items completed by Seller and not shipped when ready to ship due to Buyer's request, including Seller's reasonable costs of demobilization, delay, and remobilization. Should Work be

delayed by any of the aforementioned causes for a period exceeding one hundred eighty (180) days, Seller shall be entitled to terminate these Standard Terms, a Purchase Order, Statement of Work or an accepted Quotation upon written notice of termination to Buyer.

- 3.8 Examination Obligation. Seller's obligation to examine documents, the project site, and materials and work furnished by others is limited to notification to Buyer of any defects or deficiencies that a person in the trade of Seller would discover by reasonable visual inspection. Unless specified in the contract documents, no testing beyond reasonable visual inspection shall be required. Seller is entitled to rely on the accuracy and completeness of plans, specifications, and reports of site conditions (if any) provided to Seller.
- 3.9 Design Responsibility. Any design services provided by Seller shall be reviewed by Buyer to assure acceptability when integrated with the entire Work. Buyer is entitled to rely on the accuracy and completeness of design services or certifications provided by Seller only to the extent that design responsibility is specifically delegated to Seller by agreement in writing and all design and performance criteria are furnished to Seller.
- 3.10 Seller's employees. Solely Seller has the task of organizing the provision of Work and/or services and has the right to issue instructions to its employees. This also applies if the Work and/or Services are provided on the premises of the Buyer.
- 3.11 Subcontractors. Seller is entitled to engage subcontractors for the provision of Work and/or Services. If and as far as this considers relevant or most of the parts of Work or Services, Seller shall inform the Buyer accordingly.

#### **ARTICLE FOUR – PRICES, PAYMENT, AND ACCEPTANCE**

- 4.1 Pricing and Payment Terms. Buyer shall pay Seller according to the prices made available by Seller in writing or as set forth in the applicable Purchase Order. Unless otherwise agreed upon between the Parties in writing or specified in the Quotation or Statement of Work, Buyer shall pay Seller for Work as invoiced by Seller within thirty (30) days from date of invoice, without offset, counterclaim, holdback, deduction, or discount for early payment. All prices are published and/or quoted in USD and are subject to the delivery terms defined in Section 3. Upon receipt of an invoice, Buyer shall make payments for the Work in accordance with the dates or payment schedule specified in Seller's documents. Until receipt of payment in full, Buyer hereby grants, and Seller hereby retains, a security interest in the Work, wherever located and irrespective of its integration into other equipment, machines, or systems, and in the proceeds thereof, and in Buyer's general account receivables, to secure payment of the purchase price for the Items. Buyer further authorizes Seller to take whatever steps may be necessary to perfect such security interest, including without limitation the filing of a financing statement, and Buyer shall cooperate and assist in completing any such actions necessary to perfect such security interest. Under no circumstance shall Buyer have the right of set off under these Standard Terms.
- 4.2 Risk of Payment. Seller does not accept the risk of Buyer's receipt of payments from any source, and in no event will payments to Seller be based upon, or subject to, Buyer's receipt of payment for Seller's Work. Seller will only issue waivers of lien or bond rights that exclude any waiver of lien or bond rights securing payment of retainage, unbilled changes, and claims which have been asserted in writing or which have not yet become known to Seller, and any such waivers shall either (i) apply only through the date of Items covered by Seller's last payment application that has been

paid in full, or (ii) shall be conditional upon receipt of funds actually received to Seller's account without any bankruptcy filing ninety (90) days thereafter. Should Seller's payment be delayed because (a) Buyer fails to receive timely payment of amounts certified and approved, or (b) Buyer fails to make timely payment after itself receiving payment for Seller's Work, or (c) because Buyer's payments are not received by Buyer for reasons not the fault of or directly related to Seller's Items, then Seller may suspend Seller's Items after giving at least five (5) days written notice to Buyer of the intent to suspend and the date of intended suspension. Should Seller's Work be thereafter suspended for at least twenty-one (21) days, Seller may terminate these Standard Terms, a Purchase Order, Statement of Work, or an accepted Quotation upon written notice of termination to Buyer.

4.3 Taxes and Fees. Seller's pricing excludes all sales, use, excise, value-added, and other similar taxes, charges, and duties (including import and export duties). Buyer will be solely responsible for all taxes imposed on Buyer based upon applicable governing Law. Seller agrees that no tax for which a valid exemption exists, based upon applicable governing laws, will be included in the pricing, nor subsequently charged. In order for valid sales and use tax exemptions to exist, Buyer agrees to properly document and provide Seller with applicable sales and use tax exemption certificates when requested by Seller. Each payment to Seller shall be made without withholding for any taxes, unless required by Law. Buyer shall inform Seller of any withholding tax obligation on payments due to Seller under any invoice as soon as Buyer becomes aware of such withholding tax obligation. If Seller believes that it is eligible for exemption from, or reduction of, any U.S. withholding tax (or other withholding or similar tax of one or more other jurisdictions), Seller shall deliver to Buyer a completed, duly executed IRS Form W-9 or Form W-8 (or other appropriate form of all applicable jurisdictions as required under the Law of all applicable jurisdictions) valid through the date of payment. Buyer shall pay any withholding tax not eliminated or reduced to the relevant taxing authority. Buyer shall promptly deliver to Seller a certificate evidencing the payment of any such withholding tax. Each Party will solely be responsible for its applicable tax administration based upon the legal responsibility of the tax per applicable Law.

4.4 Costs and Expenses. Buyer shall be charged for Services rendered to submit a cost estimate and for other expenses incurred which are to be evidenced (time spent on an error search constitutes working hours) if the Work cannot be carried out for reasons which do not fall into the field of responsibility of Seller, in particular because, in the case of corrective maintenance work, the error complained of did not occur or because spare parts were not available through no fault of Seller. Seller only must return the Buyer's plant or machinery to the condition it was in before Seller commenced performance of its services at the Buyer's explicit request and in return for payment of the costs unless the work undertaken was not necessary.

The costs of the transport and of the transport insurance of the service personnel's personal luggage and of the tools transported with the personnel or sent for performance of the Work must be considered in the transport costs of the service personnel. Travel costs include the costs of journeys home by Seller's service personnel during the time of performance of the assembly, corrective maintenance, and other services (i.e., to and from the assembly location to Seller's service employee's normal place of work). Seller's service personnel's entitlement to journeys home shall be determined by the

standards of statutory regulations or collective agreements respectively applying. The classes, tariffs, or rates (e.g., km allowance) claimed by Seller's service personnel for the means of transport required (e.g., rental vehicle, taxi, public transport, airplane, ship) are set forth in Seller's price list in effect at the time of performance of the service.

4.5 Invoices and Credit. Pro rata payments shall become immediately due and payable upon Seller's completion of milestone criteria and/or delivery without set off and without further act or deed of Seller. Seller reserves the right to grant, deny or stop advancing credit at any time in its sole discretion. Seller's credit policies are subject to change at any time without notice. Buyer hereby consents to Seller giving or obtaining credit information to or from third parties regarding Buyer.

4.6 Inspection and Testing during Manufacturing. Buyer or Buyer's representatives shall have the right, upon reasonable notice to Seller (usually thirty (30) days in advance of test) to inspect and witness Seller's testing of all Equipment at Seller's place of business. Seller shall provide manufacturing facilities for inspections by Buyer and shall furnish full information regarding all materials entering into the production of the Equipment. Buyer shall immediately notify Seller of any deficiencies identified by Buyer, and Seller shall have a reasonable time within which to rectify such deficiency. Buyer's waiver of inspection constitutes Buyer's acceptance of Seller's test results verifying that the Equipment conforms to the Plans and Specifications.

4.7 Inspection Before Acceptance. Buyer shall have the right to inspect and test all the Equipment after its installation or assembly at Buyer's premises before acceptance, and to reject any or all the Equipment, which is defective or fails to conform to the approved Plans and Specifications. Payment for the Equipment shall not constitute acceptance. Buyer shall immediately notify Seller of any deficiencies identified by Buyer, and Seller shall have a reasonable time within which to rectify such deficiency. If the acceptance test is delayed or fails because of circumstances that are not attributable to Seller, the risk of loss shall pass to Buyer as of the date of notification of the acceptance test readiness.

4.8 Accuracy of Testing Results. The performance, quality, quantities, dimensions, weight, capacity, conformity, and characteristics as established in the Plans and Specifications will be deemed accurate when the Equipment is demonstrated to conform with the Plans and Specifications at the time of inspection or testing.

4.9 Acceptance of Equipment. When the work or a designated portion thereof is substantially complete, Buyer accepts the Equipment upon the earlier of (a) thirty (30) days after its installation or assembly at Buyer's Premises, or (b) when Buyer places the Equipment in service, or (c) six (6) months after Buyer is notified by Seller that the Equipment is ready to ship, whichever occurs first. All materials shall be furnished in accordance with the respective industry tolerance of color variation, thickness, size, finish, texture, and performance standards.

4.10 Acceptance of Services. Any Services performed by Seller will be subject to these Standard Terms. Buyer accepts any Services performed upon the earlier of (a) when Services are performed unless exception is taken at that time in writing, or (b) upon sign-off of Seller's personnel's daily time sheets by Buyer's representative.

4.11 Seller's Remedies for Non-Payment. Customer's failure to pay any undisputed amount when due will be deemed a material breach of these Standard Terms. Undisputed past due amounts will be subject to the maximum legal rate of interest or one and one-half percent (1.5%) per month, whichever is less. Buyer shall pay all costs and expenses incurred by Seller as a result of non-payment or delinquent payment by Buyer, including without limitation collection costs,

interest, and reasonable attorneys' fees. When requested by Seller, Buyer must promptly provide Seller its most current financial statement information. If Buyer defaults on any payment obligation to Seller, or fails to meet Seller's minimum credit standards, or if Seller has reasonable doubt as to Buyer's credit worthiness, Seller may in its sole discretion take any of the following actions: (a) refuse, alter or suspend credit terms; (b) require payment by cash in advance or on delivery; (c) suspend production or shipment of the Work; (d) request adequate assurance; and/or (e) pursue any remedies available at Law or equity available to Seller. If Buyer becomes delinquent in payment on any Seller invoice or refuses to accept shipments in accordance these Standard Terms, Seller will have the right, in addition to all other available rights and remedies, to suspend performance, cancel any or all Purchase Orders, withhold further deliveries, and declare all unpaid amounts for Work previously delivered and/or Services previously performed immediately due and payable. Seller may cancel or modify Buyer's credit terms at any time.

- 4.12 Set-Off. Customer may not set-off or recoup any amounts due (or that may become due) or are allegedly due from Seller (or a Seller's Affiliate) to Buyer, from its debts or amounts due to Seller (or a Seller's Affiliate) however and whenever arising.

## ARTICLE FIVE – BUYER'S ACTIVITIES UPON SELLER'S MANUFACTURING PREMISES

### 5.1 Buyer's Activities Upon Seller's Manufacturing Premises.

5.1.1 Indemnity. To the fullest extent permitted by law, Buyer shall indemnify, hold harmless and defend Seller, including its agents and employees, from and against all claims, damages, losses, and expenses (including attorneys' fees) arising out of or resulting from the Buyer or Buyer's representative's activities on Seller's premises, provided that any such claim, damage, loss, or expense (a) arises out of bodily injury, sickness, disease, or death, or property damage, and (b) is caused by the negligent act or omission of the Buyer, or its employees, agents, customers or contractors, and (c) is not caused by any intentional or negligent act or omission of Seller, or its employees, agents or contractors. In any and all claims against any indemnified party by any employee of the Buyer or any one acting on behalf of the Buyer, or by any person directly or indirectly employed by the Buyer, the indemnification obligation under this clause shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Buyer or anyone acting on behalf of the Buyer under worker's compensation acts, disability benefit acts, or other employee benefit acts.

5.1.2 Insurance. Unless otherwise mutually agreed to, Buyer shall carry and maintain during Seller's performance of Work, insurance with coverage and minimum limits as reasonably specified by Seller, but at the minimum:

- (a) Worker's compensation insurance in accordance with statutory requirements and employer's liability insurance in accordance with statutory requirements.
- (b) Commercial general liability insurance covering bodily injury and property damage, including products, and completed operations coverage with a minimum of \$2,000,000 per occurrence and in the aggregate.
- (c) Automobile liability insurance covering bodily injury and property damage including coverage for owned, hired, and non-owned automobiles with a minimum

of \$2,000,000 combined single limit. Buyer shall furnish Seller certificates showing that such insurance is in full force and effect prior to participating in any activities on Seller's premises. Commercial general liability insurance shall be endorsed to provide contractual liability.

- (d) In the event that Seller agrees to add Buyer as an additional insured under any Work, then Buyer will also be required to add Seller as an additional insured to any Buyer insurance policy, and to waive subrogation for claims covered by workers' compensation or commercial general liability insurance.
- 5.2 Safety. Buyer and Buyer's representatives will comply with all of Seller's safety policies as well as all applicable rules, regulations, order, and other lawful requirements established to prevent injury, loss or damage to persons or property.
- 5.3 Buyer supplied software, equipment, or personnel. In the event that the availability or functioning (as well as non-availability or non-functioning) of Buyer supplied software, equipment, or personnel delays negatively impacts the manufacturing process, including testing, Buyer agrees to be liable for all additional costs to Seller which may result, including delays to project schedule.

## ARTICLE SIX – WARRANTIES AND REMEDIES

- 6.1 Warranty Regarding Equipment and other Items. Whether or not Seller is a merchant with regard to the Equipment and other Items provided by it, Seller expressly warrants to Buyer for the Warranty Period specified herein that all Equipment and other Items sold by Seller hereunder (a) will be free from defects, latent or patent, in materials and workmanship under normal operating conditions and proper application in accordance with specifications for operations as described in the Seller's documentation, (b) will be manufactured utilizing new materials, unless otherwise specified or agreed by Buyer, and (d) will be free of all liens and encumbrances and claims of title of third parties ("Equipment Warranty"). **THE FOREGOING EQUIPMENT WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR INTENDED USE.**
- 6.2 Warranty Regarding Services. Whether or not Seller is a merchant with regard to the Services provided by it, Seller expressly warrants to Buyer that all Services performed by Seller hereunder (a) will be performed in a good and workmanlike manner by qualified persons selected and paid by Seller, (b) will be performed in accordance with generally accepted professional standards and practices and in a manner consistent with the manner in which such Services are customarily performed by experienced and competent persons rendering the same or similar Services with regard to projects of similar size, cost, and complexity ("Service Warranty"). For any breach of Service Warranty, Buyer must provide a written claim within ten (10) business days after provision of the applicable Service specifying in reasonable detail the nonconformity with such warranty, and Buyer's sole and exclusive remedy and the entire liability of Seller and its suppliers for breach of warranty under this provision is, at Seller's sole option and expense to use commercially reasonable efforts to reperform the identified nonconforming Service. If Seller concludes that re-performance of these nonconforming Service is impracticable for any reason, then Seller will refund the fees paid by Buyer to Seller allocable to those nonconforming Service.
- 6.3 Plans and Specifications. Seller shall prepare and submit to Buyer Plans and Specifications, operating and maintenance manuals, if and as specified in Seller's Quotation. Buyer or Buyer's representatives review of Plans and Specifications, or

other data developed by Seller in connection with these Standard Terms and suggestions or comments to, or approval of such Plans and Specifications or other data, relieves Seller of any responsibility for any implied warranty hereunder as to the reliability, quality, rate of output, cost, delivery, or performance of the Items, Services, or any other requirements of these Standard Terms.

- 6.4 Repair or Replacement of Non-Conforming Equipment, other Items. During the Warranty Period, Buyer's sole and exclusive remedy under the Equipment Warranty shall be limited to the repair or replacement of warranted Equipment or other Items, location to be at Seller's option. In the event Seller elects to repair such Equipment or other Items, Buyer will, at its cost, provide Seller with unobstructed access to the Equipment, adequate space in the immediate vicinity of the Equipment, and such facilities and systems, including, without limitation, forklifts, cranes, and other equipment, as well as utility connects and disconnects, as may be necessary to facilitate performance by Seller of its obligations under the warranty. At Seller's option, any such non-conforming Equipment may be returned by Buyer, at Buyer's expense, to Seller's factory or authorized factory service center, or repaired in place at Buyer's facility. Seller shall not be responsible for any charges for labor and/or parts incidental to the removal and re-installation/remounting of Equipment repaired or replaced under this warranty.
- 6.5 Warranty Period. Seller's Warranty Period is twelve (12) months after the Equipment is placed in service, whichever occurs first. The Warranty Period shall not be extended or otherwise modified as a result of the repair or replacement of any non-conforming Equipment or its components. Buyer-supplied and/or Buyer-specified (or Buyer's customer-supplied and/or Buyer's customer-specified) items on systems, assemblies or power units are warranted per original manufacturer's warranty policy only.
- 6.6 Warranty Processing Procedures. No Items shall be returned without prior authorization from Seller. Buyer shall prepay all transportation charges for the return of such Items to Seller's factory or authorized factory service center. Seller will not accept any charges for labor and/or parts incidental to the removal and remounting of Items repaired or replaced under this warranty. All repair and replacement parts provided under the Warranty provisions according to this Article 6 will assume the identity, for warranty purposes, of the part replaced and the warranty on such replacement parts will expire when the warranty on the original part would have expired. Claims must be submitted within 30 days of failure or be subject to rejection. The Warranties under these Standard Terms are not transferable beyond the first using Buyer.
- 6.7 Exclusions. The foregoing Equipment and Service warranties do not cover conditions over which Seller has no control, including, without limitation, contamination, incorrect power supply, pressures in excess of recommended maximum, Items damaged or subjected to voltage, humidity, or temperature outside of specified range, accident, abuse or misuse after shipment from Seller's factory, products or Items altered, disassembled or repaired by anyone other than Seller's personnel, Seller authorized factory service center personnel or persons so designated in writing by Seller's service department prior to commencement of said work. Types of failures which are not attributable to defects in materials and/or workmanship and which are not considered by Seller as part of the Warranties under these Standard Terms include, but are not limited to the following conditions caused by anyone other than Seller:

- ▶ Damages due to deterioration during periods of storage by the Buyer prior to installation and operation.
- ▶ Damage of any kind from erosive or corrosive action of any gases or liquids handled by the machinery.
- ▶ Lack of or incorrect type of fluid, lubricants, airline additives.
- ▶ Contamination of the fluid, lubricants, airline additives, or oil systems.
- ▶ Damage attributable to accident, abuse, neglect.
- ▶ Stripped splines or keyways on drive shaft.
- ▶ Incorrect mounting of external gears, pulleys, etc.
- ▶ Operating beyond the recommended maximum speeds, pressure, temperatures, voltage, or humidity or below the recommended voltage.
- ▶ Improper filtration.
- ▶ Repairs by unauthorized service personnel.
- ▶ Use of the product in a manner or purpose for which it was not designed or intended by Seller.
- ▶ Misalignment, mis-wiring, high vibration.
- ▶ Ordinary wear and tear.

The foregoing Equipment and Service warranties do not cover delivery of spare and wear parts. The contractual conditions, including the pricing for spare and wear parts, shall be agreed separately between Seller and Buyer.

Whenever possible, each provision of the foregoing Warranties shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of these Warranties shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of these Warranties.

- 6.8 Other Limited Warranties and No Other Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE 6, SELLER MAKES NO OTHER WARRANTY OR REPRESENTATION TO BUYER, EITHER EXPRESS OR IMPLIED, AND TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER SPECIFICALLY AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ANY OTHER WARRANTIES ARISING FROM OR OUT OF ANY COURSE OF DEALING, USAGE OF TRADE, SPECIFICATION, PROPOSAL, PERFORMANCE OR CUSTOM, AND ANY STATUTORY WARRANTY ON HIDDEN OR LATENT DEFECTS.

If Buyer grants to an end user any warranty which is greater in scope, time period or labor allowance than the warranty stated herein, Seller shall not be liable beyond the stated warranty. Equipment and accessories not manufactured by Seller shall not be the responsibility of Seller.

- 6.9 Exclusive Remedy. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, THIS ARTICLE 6 PROVIDES BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR ALL CLAIMS, DAMAGES, LOSS OR INJURIES (WHETHER DIRECT, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL) BASED ON OR ARISING FROM ANY DEFECT, FAILURE, MALFUNCTION, BREACH OF WARRANTY OR ANY OTHER PERFORMANCE, NONCONFORMANCE OR NONPERFORMANCE OF ANY PRODUCT, SOFTWARE OR SERVICE, WHETHER THE CLAIM IS IN CONTRACT, EQUITY, INDEMNITY, INFRINGEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY) OR OTHERWISE AND HOWEVER INSTITUTED.

- 6.10 Buyer warranty.  
Buyer warrants that (a) Buyer has the corporate power and

authority to enter into, and perform its obligations under these Standard Terms; (b) Buyer will not make any false, inaccurate, incomplete representation, advertisement or warranty, whether written or oral, to any third party relating to any Items or Services and that it will not make a statement or reference related to Seller without Seller's express written permission and (c) Buyer will perform all maintenance to software (and firmware), including Software Updates, as recommended or otherwise made available without change by Seller.

## ARTICLE SEVEN – INTELLECTUAL PROPERTY RIGHTS, DATA

- 7.1 Intellectual Property Rights. All intellectual property rights, including all right, title and interest in any copyrights and copyrightable works (including, but not limited to, the right to reproduce and make copies of an original work, the right to prepare derivative works, the right to distribute copies to the public, the right to public performance, the right to public display and the right to public performance of sound recordings), patents, patent disclosures and inventions (whether patentable or not), design rights, trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "Intellectual Property Rights") in and to all Items, documents, Work, work product and other materials, including all updates, modifications, improvements and derivatives thereof, that are delivered to Buyer under these Standard Terms or prepared by or on behalf of Seller in the course of performing the Services, except for any Confidential Information of Buyer or Buyer's proprietary materials, shall be exclusively owned by Seller. No rights are granted to Buyer hereunder other than as expressly set forth herein, and Buyer (and its licensors, where applicable) reserve all rights not expressly granted herein. For the avoidance of doubt, no right, title or interest to any of the software's source code is granted under these Standard Terms. Buyer shall not itself or assist or instruct others to attempt in any way to reverse engineer, copy/reproduce, decompile, disassemble, translate, fragment parts or otherwise obtain or attempt to obtain in any way access to the Software or to the Software's source code provided by Seller without Seller's prior written consent, except as required in accordance with Section 7.2 below. Buyer shall not remove, change, alter or otherwise render unintelligible any designation of the Software, including copyright notices, trademarks, serial numbers and the like. Seller hereby grants Buyer a limited license to utilize all Intellectual Property Rights associated with or contained in the Item(s) on a non-exclusive, non-transferable, non-sublicensable, fully paid-up, royalty-free and perpetual basis to the extent necessary to enable Buyer to make reasonable use of the Item(s). Unless expressly agreed in writing by Seller, Software and Items and prototypes delivered by Seller will be treated as Confidential Information as defined in Section 9.
- 7.2 Third Party Intellectual Property Rights. To the extent the Items (including, but not limited to, any Software contained therein) contain third party Intellectual Property Rights, Seller only provides those rights which Seller has lawfully obtained from such third party. To the extent that Buyer provides any Software to Seller or directs Seller to include any third-party software, Buyer shall secure any and all third-party Intellectual Property

Rights necessary for Seller to use such Software and Buyer shall indemnify Seller for all costs, expenses and damages caused by Buyer's failure to secure the necessary Intellectual Property Rights in such software.

- 7.3 Open-Source Software. To the extent Items (including, but not limited to, any Software contained therein) contain free or open-source software (collectively, "OSS"), such OSS may be subject to separate third-party OSS licensing terms and conditions ("OSS-Terms and Conditions"). Under such OSS-Terms and Conditions, Seller may be required to provide the OSS-Terms and Conditions to Buyer and Buyer must comply with all of the applicable OSS-Terms and Conditions and fulfill all corresponding obligations of the applicable OSS-Terms and Conditions, especially if Buyer further distributes, publishes or provides the Items through sales or other transfer to third parties (including an end user or customer). Such obligations may include, for example, documentation obligations or obligations to provide the source code of any software in which the OSS has also been integrated. An overview of all OSS-components contained in the Items, as well as corresponding license text of the OSS Terms and Conditions (of all originating OSS authors), are part of or are included with Seller's Documentation. New or updated Software component versions included in the Items may contain other and/or additional OSS. For such other and/or additional OSS, the same terms, and conditions as applicable apply. Buyer shall use commercially reasonable efforts to not combine or request Seller to combine the other any software, goods and/or services with any OSS or other data in any manner, which would result in the other party's software, goods and/or services becoming subject to the terms of an OSS license. For any software provided to Seller by or on behalf of Buyer, Seller shall disclose in writing a list of all applicable OSS -Terms and Conditions, and third party software included in such software, at the time of delivery of such software to Seller. Buyer shall indemnify Seller for all costs, expenses and damages caused by Buyer's failure to disclose OSS-Terms and Conditions and/or third party license terms in software provided by Buyer, directed by Buyer or on behalf of Buyer.
- 7.4 Buyer's Feedback. If Buyer provides any ideas, suggestions or recommendations to Seller regarding the Items ("Feedback"), Buyer, on behalf of itself and its Affiliates and their customers and end customers, hereby grants to Seller and its Affiliates a non-exclusive, sublicensable, transferable, irrevocable, paid-up, royalty-free, perpetual, worldwide license under and to all of Buyer's rights and interests that are incorporated in any Feedback to make, have made, use, sell, offer to sell, import, reproduce, display, perform or distribute any Seller's Items and such Feedback. Furthermore, Seller may use, copy, modify, publish, or redistribute the Feedback for any purpose and in any way without any compensation to Buyer or reference to Buyer as a source of any such Feedback.
- 7.5 Buyer's Data. Buyer represents and warrants that: (a) all Buyer's Data it provides to Seller hereunder is owned by Buyer or Buyer has the right to provide such Buyer's Data to Seller for use by Seller in connection with these Standard Terms; and (b) any authorized processing of Buyer's Data by Seller does not and will not violate or infringe the intellectual property, privacy or publicity rights of any third party, or any applicable data privacy and security Laws.
- 7.6 License to Buyer's Data. Buyer hereby grants to Seller the right to use the Buyer's Data for the purposes of processing such Buyer's Data in conjunction with the Items, Software and/or Services, and/or performing all other obligations of Seller under these Standard Terms. In addition, Buyer hereby grants to Seller a limited, non-exclusive, perpetual, irrevocable, royalty-free, non-transferable, worldwide license to use, and sublicense to Affiliates, agents,



consultants and subcontractors within the same scope, the Buyer's Data, for the following purposes (a) to improve and enhance the Items, Software and/or Services and for other development, diagnostic and corrective purposes in connection with the Items and/or Services; (b) the investigation of any accidents or claims related to a defect, failure, or alleged defect or failure of Seller's Items, Software and/or Services; (c) the defense of any claim against Seller brought by Buyer or any third party; and (d) any other purpose as mutually agreed in writing between the Parties.

7.7 Aggregated and Anonymized Data. The Software may collect and compile data and information related to its use which may be aggregated and anonymized, including compiling statistical and performance information related to the provision and operation of the Software ("Aggregated and Anonymized Data"). Aggregate and Anonymized Data shall only include data or information which (a) is anonymized and NOT identifiable to any person or entity; and (b) which does not reveal Customer's identity. As between Seller and Buyer, all right, title, and interest in Aggregated and Anonymized Data, and all intellectual property rights therein, belong to and are retained solely by Seller. Buyer acknowledges that Seller may compile Aggregated and Anonymized Data based on Buyer's Data collected, produced or otherwise processed by the Software. Buyer shall not, and shall not assist any third party to, oppose, contest, restrict or otherwise challenge Seller's rights related to the Aggregated and Anonymized Data.

7.8 Protection and Privacy - Buyer's Data and Personal Information. To the extent Seller processes Buyer's Data, Seller has implemented and maintains commercially reasonable administrative, physical, and technical safeguards designed: (a) to maintain the security, confidentiality and integrity of such Buyer's Data; (b) to protect such Buyer's Data from known or reasonably anticipated threats or hazards to its security and integrity, accidental loss, alteration, disclosure and all other unlawful forms of processing, and (c) so that they do not constitute unfair, deceptive or abusive acts or practices with respect to such Buyer's Data. The terms of the Data Protection Notice at <https://www.bosch.us/privacy-notice/> are hereby incorporated by reference and shall apply to the extent Buyer's Data includes Personal Data.

## ARTICLE EIGHT – PUBLICITY AND CONFIDENTIALITY

8.1 Confidentiality Definitions. Any non-public technical, financial or business information, trade secrets, content, or any other information provided by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") directly or indirectly, orally or in writing that is: (a) marked confidential or proprietary, or (b) given the nature of the information or the circumstances surrounding its disclosure, reasonably should be deemed confidential ("**Confidential Information**") shall be held in confidence by the Receiving Party, not disclosed, and not be used by such party except to the extent necessary to carry out its obligations or express rights hereunder, except as otherwise authorized by the Disclosing Party in writing. Confidential Information includes, but is not limited to these Standard Terms, Purchase Orders, Quotations, and any other agreements between Seller and Buyer relating to, and any information and data concerning the Items and the Services. The Disclosing Party or its licensors retain all right in such Confidential Information. When applicable, all specifications accompanying a

Quotation are considered confidential to Seller, therefore they are to be solely reviewed by personnel of Buyer on a need to know basis, unless otherwise authorized in writing by Seller.

8.2 Obligations. The Receiving Party will use Confidential Information only in connection with its performance under these Standard Terms or any Quotation related thereto. The Receiving Party shall use the same degree of care to avoid any disclosure or use of the Confidential Information as it uses for its own confidential, proprietary and trade secret information, but in no case use less than a reasonable degree of care. The Receiving Party agrees to limit disclosure of Confidential Information to employees, contractors or agents and employees, contractors or agents of Affiliates having a specific need to know such Confidential Information in furtherance of its performance under these Standard Terms.

8.3 Exceptions. The confidentiality obligations under this Article 8 do not apply to any information that: (a) is generally known, or readily ascertainable by proper means, by the public other than through the Receiving Party's fault; (b) was known by or in the possession of the Receiving Party or its Affiliate at the time of disclosure as shown by the Receiving Party's and/or its Affiliates' files and records prior to the time of disclosure, other than as a result of any improper act or omission of the Receiving Party or its Affiliate; (c) is rightly received by the Receiving Party from a third-party not subject to any nondisclosure obligations with respect to the Confidential Information; or (d) is independently developed by an employee, agent or consultant of the Receiving Party or its Affiliates without reference to or use of the Disclosing Party's Confidential Information.

8.4 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent it is requested, ordered or required by a regulatory agency or any other government authority or a court to do so; provided the Receiving Party promptly notifies the Disclosing Party of such request, order or requirement (to the extent legally permitted) and provides reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party shall reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information. If such protective order or other remedy is not obtained, the Receiving Party shall furnish only that portion of the Confidential Information that is legally required and use commercially reasonable efforts to obtain assurance that confidential treatment shall be accorded the Confidential Information.

8.5 Reproduction and Return of Confidential Information. The Confidential Information provided by the Disclosing Party shall not be copied or reproduced without the Disclosing Party's prior written consent, except for such copies as may reasonably be required by the Receiving Party for its performance of its obligations under these Standard Terms. Upon the Disclosing Party's request, the Receiving Party shall promptly return to the Disclosing Party (or its designees) all Confidential Information received from the Disclosing Party or certify that it has destroyed all Confidential Information, in whatever form, including written or electronically recorded information and all copies thereof (other than copies retained in automatic back-up and archive systems). Notwithstanding the foregoing, the Receiving Party shall be entitled to retain one copy of the Confidential Information with its legal counsel or other appropriate corporate representative to evidence the exchange of information hereunder and in connection with legal or statutory requirements. All such retained copies shall be subject to the use and disclosure restrictions set forth in



this Article 8 of these Standard Terms for so long as the Confidential Information is retained.

## ARTICLE NINE – ACTIVITIES ON THE BUYER’S OR END CUSTOMER’S FACILITIES

- 9.1 Buyer’s responsibilities. Buyer must ensure that at the site, where the Equipment shall be installed, there is access to water, power supply, compressed air, gas supply and any other media required according to the Seller’s Quotation. Buyer shall also complete preparatory works regarding the allocation of electricity, gas and water and any other media required according to the Seller’s quotation Unless otherwise agreed by the parties, these preparatory works must be completed and ready for use at the installation site before the start of the installation of the Equipment. Buyer is solely responsible for procuring and maintaining its network connections and Buyer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Items and/or Services including without limitation, modems, hardware, servers, software, operating systems, networking, and web servers (“Buyer’s Equipment”). Buyer shall also be responsible for maintaining the security of the Buyer’s Equipment, Buyer’s account, passwords (including, but not limited to, administrative passwords) and files, and for all uses of Buyer account or the Buyer’s Equipment with or without Buyer’s knowledge or consent.
- 9.2 Insurance. Unless otherwise mutually agreed to, Seller and Buyer shall each carry and maintain during performance of Work or Services contracted under any Purchase Order, the following insurance with minimum limits as specified for each type of insurance:
- (a) Worker’s compensation insurance in accordance with statutory requirements and employer’s liability insurance in accordance with statutory requirements.
  - (b) Commercial general liability insurance covering bodily injury and property damage, including products, and completed operations coverage with a minimum of \$2,000,000 per occurrence and in the aggregate.
  - (c) Automobile liability insurance covering bodily injury and property damage including coverage for owned, hired, and non-owned automobiles with a minimum of \$2,000,000 combined single limit. Each party shall furnish the other party certificates showing that such insurance is in full force and effect prior to commencing the performance of work or services contracted under any Purchase Order from Buyer, and each Party shall provide the other Party written notice within a reasonable time after receipt by such Party of notice from its insurer that any coverage required hereunder is being canceled or materially modified. All such insurance shall be endorsed to provide contractual liability.
  - (d) The sufficiency of Seller’s insurance coverages shall be deemed to be accepted by Buyer at such time as Buyer initiates payment to Seller, and Buyer shall be deemed to have waived any claims against Seller related to Seller’s obligation to obtain insurance compliant with the contract.
- 9.3 Buyer’s All Risk Insurance. Seller shall provide reasonable protection for its jobsite material and work but shall be liable for losses only to the extent caused by Seller’s negligence. It is understood and agreed to that Buyer’s all-risk insurance (or that of the property owner where the Equipment is located) includes coverage for the full value of loss or damage to Seller’s work in place, for its stored material, and for its material in transit.

- 9.4 Additional Insureds. Seller will not be required to add additional insureds to any insurance policy, nor to waive subrogation for claims covered by workers’ compensation or commercial general liability insurance. Seller shall maintain insurance with coverage and limits only as provided by Seller’s existing insurance program evidenced by its certificate of insurance available on request.
- 9.5 Buyer’s Facilities. Except as specifically required by the Work and specifications included in the Purchase Order, Buyer shall furnish all site facilities, where the Equipment will be installed, including but not limited to reasonable site access, storage space, hoisting facilities, guard rails, covers for floor, roof and wall openings, security, parking, safety orientation, break and lunch facilities, toilet and wash facilities, drinking water and other water facilities, electrical service, telecommunication service, lighting, heat, ventilation, weather protection, fire protection, and for any other media (e.g. compressed air, gas supply) required according to the Quote, as provided for in the specification, trash and recycling services. Buyer shall carry out all preparatory work at the site of installation of the Equipment of the contract at its own expense and in a professional manner, including all preparatory construction work (e.g. earthwork, pile driving, demolition, foundation work, cementing, carpentry, plastering, painting, wallpapering, repairs or any as well as preparatory works with regard to the allocation of electricity, gas and water and any other media required according to the quotation. These works are neither to be carried out by us nor are they included in the remuneration. Unless otherwise agreed, these preparatory works and connections, which are required for the operation of the subject matter of the contract, must be completed and ready for use at the installation site before the start of the installation of the subject matter of the contract.
- 9.6 Documents, Materials, Work, Etc. of Third Parties. Seller’s obligation to examine documents, the project site, and materials and work furnished by others is limited to notification to Buyer of any defects or deficiencies that a person in the trade of Seller would discover by reasonable visual inspection. No testing beyond reasonable visual inspection shall be required. Seller is entitled to rely on the accuracy and completeness of plans, specifications, and reports of site conditions provided to Seller by Buyer. Any design services provided by Seller will be reviewed by Buyer to assure acceptability when integrated with the entire work. Buyer is entitled to rely on the accuracy and completeness of design services or certifications provided by Seller only to the extent that design responsibility is specifically delegated to Seller by agreement in writing and all design and performance criteria are furnished to Seller.
- 9.7 Safety Barriers and Fines. Seller shall not be liable for erecting or maintaining project safety barriers unless expressly and specifically agreed to be part of the Seller’s Work.
- 9.8 Hazardous Materials.
- (a) If Seller or any of its subcontractors encounter pre-existing hazardous materials at the site, and Seller or any of its subcontractors knows or suspects that such material is hazardous material, Seller and its subcontractors shall promptly stop performing services in the affected area, and Seller shall instruct any of its subcontractors to promptly stop performing work in the affected area; Seller shall further notify Buyer and wait for instructions from Buyer before resuming any services or construction work in the affected area.
  - (b) Buyer represents that it has disclosed in writing to Seller the existence of any hazardous or toxic materials known to Buyer to exist on or near the Buyer’s (or the end user’s) premises or equipment. Seller shall not be required to perform any services in proximity to any hazardous or toxic material without written mutual agreement identifying the nature of such material and

the remedies to be undertaken.

- (c) **Buyer shall remove, transport and, as appropriate, dispose of any Hazardous Materials discovered or released at the site, but excluding any hazardous materials generated by Seller or any of its subcontractors. BUYER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES AND LITIGATION OR ARBITRATION EXPENSES) INCURRED BY SELLER TO THE EXTENT ARISING FROM ANY CONTAMINATION OR POLLUTION RESULTING FROM ANY HAZARDOUS MATERIALS FOR WHICH BUYER IS RESPONSIBLE UNDER THIS SECTION.**

## **ARTICLE TEN – INDEMNIFICATION AND LIMITATION OF LIABILITY AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.**

10.1 Indemnification – Seller. Except as set forth below in Section 10.2 and 10.3, Seller will defend any third party lawsuit or action against the Buyer based on a claim that the Items or Services as delivered by Seller directly infringes a valid U.S. patent or copyright, and indemnify Buyer for any final judgment assessed against Buyer resulting from such lawsuit, provided that Buyer: (a) promptly notifies Seller at the time it is apprised of the third-party claim; (b) provides any and all relevant materials and information related to the claim to Seller; (c) cooperates and provides Seller with reasonable assistance for the defense and disposition of the claim; and (d) gives Seller exclusive control over the defense and resolution of the claim, using counsel of Seller choice. Without Seller's prior written consent, Seller will not be responsible for: (x) any compromise or settlement made by Seller; and (y) any defense fees or costs incurred by Seller, or any expenses incurred by Seller for itself or on Seller's behalf.

10.2 Infringement Remedy. Subject to Section 10.5 of these Standard Terms, if Items and/or Service is held to constitute infringement or its use is enjoined, Seller may, at its sole option and expense, and as Buyer's sole and exclusive remedy: (a) procure for Buyer the right to continue using the Item and/or Service; (b) replace the Item or Service with a similar non-infringing item or service; (c) modify the Item or Service, or any portion thereof, so that it is non-infringing; or (d) accept return of the Item and/or terminate Buyer's rights to use or make use of the Items or Service, and grant a Buyer credit for the purchase price paid for the Item or Service, less a reasonable depreciation for use, damages and obsolescence as applicable. In the event that Seller believes that any of the Items or Service may be subject to a claim of infringement, Seller reserves the right at its sole discretion to stop delivering or providing Buyer access to the Items or Service, and such stoppage will not be considered a breach by Seller of these Standard Terms. THIS SECTION 10.2 STATES SELLER' ENTIRE LIABILITY, BUYER'S SOLE RECOURSE AND EXCLUSIVE REMEDY WITH RESPECT TO INFRINGEMENT. ALL WARRANTIES RELATED TO INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, STATUTORY, EXPRESS, IMPLIED OR OTHERWISE, ARE HEREBY DISCLAIMED.

10.3 Limitation on Infringement. Seller will have no obligation or liability under this Article 10 and Buyer shall indemnify, defend and hold Seller Indemnified Parties harmless to

the extent that any claim for infringement arises out of or results from any of the following: (a) Buyer's designs, changes, Plans and Specifications; (b) Items or Services used other than for the purpose for which Seller intended; (c) combining any Items or Services with any article, component, hardware, system or software not provided by Seller; (d) Buyer's failure to promptly update any Software previously provided by Seller or a third-party on its behalf; (e) the implementation of Standardized Technologies into the Items or Services, to the extent Seller's indemnification obligation under this Section 8 stems from Standardized Technologies; (f) the application or use of any Items or Services, which fail to comply with the specification or other written instruction from Seller; or (g) any alteration, customization or other modification of the Items or Services other than by Seller. For the purposes of these Standard Terms, ("Standardized Technologies") means technical specifications or functions: (i) adopted by a standards organization (e.g., ETSI or IEEE), or (ii) defined by research institutes, industrial companies, or market participants to ensure technical conformity or compatibility, or (iii) established by common practice in a particular field).

10.4 Indemnification – Buyer. Buyer shall, at Buyer's sole expense, indemnify, defend and hold Seller and its Affiliates, and their respective owners, shareholders, members, managers, directors, officers, employees, representatives, agents, subcontractors, contractors, successors and assigns (collectively, "Seller Indemnified Parties") harmless against all losses, claims, liabilities, damages, causes of action, judgments, settlement payments, interest, awards, penalties, fines, costs and expenses (including without limitation reasonable court costs, reasonable attorneys' fees, and arbitration, mediation and expert fees and any recall costs and expenses) arising out of or relating to Buyer's or Buyer's Affiliate's, or their subcontractor's, supplier's, integrator's, end customer's or representative's: (a) negligent act or omission or willful misconduct; (b) breach of these Standard Terms or violation of applicable Law; (c) misuse or improper installation, storage, maintenance or use of the Items made available to Buyer by Seller; (d) incorporation of the Items into another product or service; (e) changes, alterations or additions to Items or Services; or (e) Buyer's relationship with any end user customer, including any dispute with an end user. Buyer will be entitled to control the defense of such claim for which it is providing indemnity to any Seller Indemnified Parties pursuant to this Section 10.4. At Buyer's expense, Seller will reasonably cooperate in the defense of the claim, including but not limited to promptly furnishing Buyer with all relevant information within its reasonable possession or control. Seller may participate in the defense at its own expense and through counsel of its choosing. Buyer shall not admit liability or enter into any settlement without the prior written approval of Seller.

10.5 LIMITATION ON LIABILITY AND REMEDIES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE STANDARD TERMS AND EXCEPT FOR SELLER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: SELLER AND ITS AFFILIATES, AND THEIR RESPECTIVE OWNERS, SHAREHOLDERS, MEMBERS, MANAGERS, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUBCONTRACTORS, CONTRACTORS, SUCCESSORS AND ASSIGNS SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING LOSSES OR DAMAGES: EXEMPLARY, SPECIAL, PUNITIVE, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, LOST SALES, LOSS OR CORRUPTION OF DATA, LOSS OF

**PRODUCT USE, LOSS OF BUSINESS, LOSS OF GOODWILL, DOWNTIME COSTS, DAMAGE TO ASSOCIATED EQUIPMENT, LOSS OF REPUTATION, LOSS OF DATA, COST OF SUBSTITUTE GOODS, FACILITIES OR SERVICES, OR CLAIMS OF BUYER'S END USER CUSTOMERS, FOR SUCH DAMAGES OR LOSSES), EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF SUCH DAMAGES OR LOSSES WERE FORESEEN, FORESEEABLE, KNOWN OR OTHERWISE AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. IN NO EVENT SHALL SELLER'S TOTAL AGGREGATE LIABILITY ARISING OUT OF THESE STANDARD TERMS AND CONDITIONS OF SALE, WHETHER UNDER TORT, CONTRACT, WARRANTY OR OTHERWISE EXCEED THE TOTAL AMOUNTS PAID BY BUYER TO SELLER FOR THE ITEM GIVING RISE TO THE CLAIM DURING THE 12 MONTHS PRECEDING NOTICE OF THE CLAIM. THE LIMITATIONS OF LIABILITY CONTAINED IN THESE STANDARD TERMS ARE A FUNDAMENTAL PART OF THE BASIS OF SELLER'S BARGAIN HEREUNDER AND SELLER WOULD NOT ENTER INTO THESE STANDARD TERMS ABSENT SUCH LIMITATIONS. Seller's rights and remedies set forth herein shall be in addition to any legal or equitable right or remedy available to Seller. No waiver of any of Seller's rights or remedies shall be effective without Seller's express written consent.**

## **ARTICLE ELEVEN – COMPLIANCE WITH LAWS**

- 11.1 Governmental Authorizations, Approvals, Permits and Licenses. Unless otherwise agreed, Buyer shall apply for, pay for, and obtain on a timely basis all federal, state, local and municipal authorizations, approvals, permits and licenses which may be required in connection with the installation and operation of the Equipment. Buyer and Seller will reasonably assist each other in every manner reasonably possible in securing such authorizations, approvals, permits and licenses.
- 11.2 Government Procurement Laws and Regulations. If the Items or Services provided are purchased under a government contract or sub-contract, Buyer shall promptly notify Seller (prior to Seller's Quotation) of the provisions of any government procurement Laws and regulations. To the fullest extent permitted by law, Buyer agrees to indemnify Seller and hold Seller harmless from any and all associated costs incurred by Seller, and any and all penalties imposed upon Seller in order for Seller to comply with government flow-down provisions.
- 11.2.1 Seller's equipment qualifies as commercial item goods (as defined in FAR 2.101) and therefore Seller requests that Buyer issue a FAR Part 12, firm fixed-price, commercial item subcontract to Seller. Prior to acceptance of a subcontract or Purchase Order from Buyer, Seller reserves the right to negotiate with Buyer the terms and conditions of such subcontract or Purchase Order, consistent with the issuance of a FAR Part 12, firm fixed-price, commercial item subcontract.
- 11.3 Export Control. Seller and Buyer acknowledge and agree that the Items covered by Buyer's Purchase Order may be subject to export controls imposed by the United States Government under various federal laws including, but not limited to, the Export Administration Act of 1979 ("EAR"), the International Traffic in Arms Regulations ("ITAR"), and Office of Foreign Asset Controls ("OFAC"), as may be amended or any successor legislation, and the regulations promulgated thereunder, (collectively the "Regulations"). Buyer agrees to advise Seller

(prior to Seller's Quotation and/or Purchase Order acknowledgement) of the applicability of such Regulations to the Equipment or Services to be provided, and, if Seller is the exporter of the Items, to provide correct and complete identification (ship-to-address, end-use, end-user etc.) for the shipment of the Items. To the fullest extent permitted by law, Buyer agrees to indemnify and hold harmless Seller from any and all associated costs incurred by Seller, and any and all penalties imposed upon Seller for Seller's unintentional violation of the Regulations due to Buyer's failure to timely notify Seller. Buyer agrees not to export or re-export any Items without complying with the Regulations and Buyer shall be solely responsible for such compliance with the Regulations.

11.3.1 Buyer acknowledges that any diversion contrary to the Regulations by Buyer or any subsequent party of any such Items provided by Seller is prohibited and Buyer shall be solely responsible for any diversion which is contrary to the Regulations.

11.3.2 Buyer further certifies that the Items: (a) are not intended to be used for any purpose prohibited by the Regulations, including, without limitation, terrorism, nuclear related activities or chemical/ biological weapons or missiles; (b) are not intended to be released, shipped, or re-exported, either directly or indirectly, to any other destination to which the United States has embargoes, restrictions, prohibited exports and/or re-exports of Items to countries as designated in the Regulations, and (c) are not intended to be released, shipped or re-exported, either directly or indirectly, to any persons identified on any sanctioned parties lists published by a US Government Agency, including but not limited to, the lists published by the U.S. Department of Commerce, Bureau of Industry and Security; US Department of Treasury, OFAC and US State Department. intended to be released, shipped, or re-exported, either directly or indirectly, to any persons identified on any sanctioned parties' lists published by a US Government Agency, including but not limited to the lists published by the U.S. Department of Commerce, Bureau of Industry and Security; US Department of Treasury, OFAC and US State Department.

11.3.3 The Party conducting an export, deemed export or re-export, as defined in the respective Export Control laws, shall be responsible for obtaining the required authorizations. The Party making the export shall first obtain the written consent of the disclosing Party prior to submitting any request for authority to export other Party's Confidential Information. Each Party shall reasonably cooperate with, and exercise reasonable efforts to support, the Party making the export, deemed export, or re-export in obtaining any necessary licenses or authorizations required to perform its obligations under these Standard Terms.

11.3.4 The Party providing any Items in conjunction with this Agreement shall, upon written request of the other Party, provide the Export Control Classification Numbers ("ECCNs") for each Item as well as the ECCNs for any components or parts of each Item, if such component ECCN's are different from the ECCN of the Item at issue.

11.3.5 To the extent that such Items, or any parts or components thereof, were specifically designed or modified for a military end use or end user, the Party providing such Items shall notify the other Party of this fact and shall also provide the other Party with written confirmation from the United States Department of State that such Items, and all such parts or components thereof, are dual-use Items subject to the jurisdiction of the Department of Commerce

11.3.6 The disclosing Party shall inform the receiving Party if any Confidential Information disclosed under this Agreement is anything other than EAR99 prior to the dissemination of the controlled product, technical data, software, etc.

11.3.7 This Paragraph shall survive any termination or expiration of Buyer's Purchase Order or termination of these

Standard Terms.

- 11.4 Compliance with Laws. Each party shall, at its sole cost and expense, comply with all applicable Laws and other requirements relating to or affecting these Standard Terms, the Items, Services (including their sale, transfer, handling, storage, use, disposal, export, re-export and transshipment) and/or software.

## ARTICLE TWELVE – TERMINATION

- 12.1 Termination for Breach. Either party may terminate these Standard Terms, a Purchase Order, or an accepted Quotation: (a) upon material breach of any material term of these Standard Terms by the other party which is not remedied within thirty (30) days after written notice of such breach is issued by the non-breaching party; or (b) if a party becomes insolvent or makes an assignment for the benefit of creditors, or such party institutes any voluntary proceeding under bankruptcy, reorganization, arrangement, readjustment of debt or insolvency law of any jurisdiction or for the appointment of a receiver or trustee in respect to any of the party's property, then termination shall be automatic and immediate; however, in the event any such proceeding is initiated by a third-party against such Party, termination shall be automatic if such proceeding is not dismissed or cured by the party within thirty (30) days after the filing thereof. Upon termination, all rights, licenses, consents, and authorizations granted by a party hereunder will immediately terminate, other than those expressly specified to continue after termination. The rights of termination provided herein are not exclusive of other remedies that Seller may be entitled to under these Standard Terms or in law or equity.
- 12.2 Payment upon Termination. In no event will termination relieve Buyer of its obligation to pay any fees payable to Seller for the period prior to the effective date of termination. In the event of any termination by Buyer, which is not justified by a default of Seller, or termination by Seller, Seller shall be entitled to payment from Buyer for all costs incurred by Seller for which Seller has not received payment, plus reasonable overhead, profit, expenses, reasonable attorneys' fees, interest, and overhead and profit on unperformed Work. In the event of termination by Buyer for any reason regardless of default by Seller, Buyer shall be entitled to an interest in and the use of only those materials and supplies located on the Buyer's premises for which payment has been made to Seller. Under no circumstances shall any party other than Seller be entitled to any interest in or use of Seller's tools, machinery, or equipment, regardless of whether the same are located on the Buyer's premises.
- 12.3 Surviving Provisions. Articles 1 and 5 through 14 will survive any termination or expiration of these Standard Terms, any Purchase Order, Statement of Work or Quotation.

## ARTICLE THIRTEEN – MISCELLANEOUS

- 13.1 Notices. All written notices, requests, demands, consents, certificates, or other communications required or permitted to be given hereunder shall be sufficiently given when mailed by (a) certified mail, return receipt requested, postage prepaid, (b) commercial overnight delivery courier, fees prepaid, or (c) email transmission confirmed by method (a) or (b) above, addressed to Buyer or Seller, as the case may be, at their respective addresses set forth on the first page of these Standard Terms and below. Either party may, by like notice at any time and from time to time, designate a different address to which notices shall be sent.
- 13.2 Assignment. The rights of Seller under these Standard Terms may not be assigned or otherwise transferred by

Seller to any successor, assignee, or any surviving, resulting or transferee corporation, partnership or other business entity without the prior written permission of Buyer; provided, however, that all obligations of Seller hereunder shall be enforceable by Buyer against Seller and any such successor, assignee or surviving, resulting or transferee corporation, partnership or other business entity without regard to the granting or withholding of Buyer's permission to such assignment or other transfer. Seller may assign monies due and to become due under these Standard Terms. Buyer shall not be entitled to assert against the assignee thereof any rights, claims, and defenses of every type (including, without limitation, rights of set off, recoupment, and counterclaim) which Buyer could assert against Seller, whether arising prior or subsequent to such assignment. The rights of Buyer under these Standard Terms may not be assigned or otherwise transferred by Buyer to any successor, assignee, or any surviving, resulting or transferee corporation, partnership, or other business entity without the prior written permission of Seller.

- 13.3 Waiver. No waiver shall be implied by a party's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege granted to such party hereby. No express waiver by either party shall be construed as waiving any breach hereunder or the performance of any of the terms or conditions hereof not specified in the express waiver, and then only for the time and to the extent stated therein. One or more waivers of any covenant, term or condition hereof shall not be construed as a waiver of a subsequent breach of the same covenant, term, or condition.
- 13.4 Severability. If any covenant, term or condition hereof for the application thereof to any circumstance or person shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, the remaining valid and enforceable covenants, terms and conditions hereof and the application of such invalid or unenforceable covenant, term or condition to circumstances or persons other than those as to which it has been held invalid or unenforceable shall not be affected thereby and each remaining valid and enforceable covenant, term and condition shall be valid and enforceable to the fullest extent permitted by law.
- 13.5 Rules of Construction. Words of any gender used in these Standard Terms shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and words in the plural shall be held to include the singular, unless and only to the extent that the context clearly indicates otherwise.
- 13.6 Captions. All captions contained in these Standard Terms are for the convenience of the parties and shall not be deemed or construed as in any way limiting or extending the language of the provisions to which they refer.

## ARTICLE FOURTEEN – DISPUTE RESOLUTION, GOVERNING LAW

- 14.1 Settlement of Disputes. Any dispute that arises under or is related to these Standard Terms that cannot be settled by mutual agreement of the parties may be decided by a court of competent jurisdiction in accordance to Paragraph 12.2 below. In the event of a dispute between Buyer and a third party to the extent that the dispute pertains to Items furnished by Seller, Seller agrees to assist Buyer at Buyer's expense.
- 14.2 Governing Law/Jurisdiction. Any and all disputes, controversies, differences, or claims arising out of or relating to the Order (including the formation, existence, validity, interpretation (including of this Section 12.2), breach or termination thereof) or the Items shall be resolved through binding arbitration, except that either party shall have the right at its option, to seek interim injunctive relief at any time, under seal to maintain

confidentiality to the extent permitted by law, (i) in either the Michigan Circuit Court for the County of Oakland or the United States Court for the Eastern District of Michigan, or (ii) pursuant to the American Arbitration Association Commercial Arbitration Rules. A request by a party to a court of competent jurisdiction for such interim measures shall not be deemed incompatible with, or a waiver of, these Standard Terms to arbitrate. The parties agree that any ruling by the arbitration tribunal on interim measures shall be deemed to be final for purposes of enforcement of the interim measures. The arbitration proceedings shall be conducted before a panel of three arbitrators (one appointed by each party and the neutral appointed by the other two arbitrators, but if the arbitrators appointed by the parties are unable to agree upon the third, the third arbitrator shall be selected by the AAA) in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as amended from time to time, and shall be governed by the United States Federal Arbitration Act and this Section 36. The arbitration shall be conducted in Detroit, Michigan, USA, and the language of the arbitration shall be English. The arbitrators' award shall be final and binding. The arbitrators shall issue a written opinion setting forth the basis for the arbitrators' decision. The written opinion may be issued separately from the award, in the arbitrators' discretion. Each party shall bear its own attorney fees and costs, and each party shall bear one half the cost of the arbitration hearing

fees and the cost of the arbitrators, unless the arbitrators find the claims or defenses to have been frivolous or harassing, in which case fees and costs may be assessed in the arbitrators' discretion. While arbitration proceedings are pending, the parties shall continue to perform their obligations under without set off for any matters being contested in the arbitration proceedings. The arbitrators shall have no authority to award punitive damages against Buyer or any other damages excluded herein, to the greatest extent permitted by law. Except as may be required by law, neither a party, its counsel, the American Arbitration Association, nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

- 14.3 Venue for confirmation of or any challenge to the Arbitration Award shall be in either the Michigan Circuit Court for the County of Oakland or the United States Court for the Eastern District of Michigan and shall be done under seal to maintain confidentiality to the greatest extent permitted by law.
- 14.4 The Order shall be construed and governed in accordance with the laws of the State of Michigan except for its choice of law rules. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, and any conflict-of-laws provisions that would require application of another choice of law, are excluded.
- 14.5 Neither course of performance, course of dealing or usage of trade may be used to vary the terms of the Purchase Order.